

Serial 78

LEGAL SERVICES CORPORATION



OVERSIGHT HEARING
BEFORE THE
SUBCOMMITTEE ON COURTS, CIVIL LIBERTIES,
AND THE ADMINISTRATION OF JUSTICE
OF THE
COMMITTEE ON THE JUDICIARY
HOUSE OF REPRESENTATIVES
NINETY-FIFTH CONGRESS
SECOND SESSION
ON
LEGAL SERVICES CORPORATION

MAY 22, 1978

Serial No. 78



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(This appendix reflects the dialog between the Subcommittee on Courts, Civil Liberties and the Administration of Justice, and the Legal Services Corporation, which resulted in changes in those policies and practices.)

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LEGAL SERVICES CORPORATION

MONDAY, MAY 22, 1978

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON COURTS, CIVIL LIBERTIES,
AND THE ADMINISTRATION OF JUSTICE
OF THE COMMITTEE ON THE JUDICIARY,
Washington, D.C.

The subcommittee met, pursuant to notice, at 9:35 a.m., in room 2226, Rayburn House Office Building, the Honorable George E. Danielson (acting chairman) presiding.

Present: Representatives Kastenmeier, Danielson, Drinan, Ertel, Railsback, and Butler.

Also present: Gail Higgins Fogarty, counsel, and Thomas E. Mooney, associate counsel.

Mr. DANIELSON. The subcommittee will come to order.

The hearing this morning is an oversight hearing with respect to the Legal Services Corporation, and in particular its expansion policies and practices. Mr. Kastenmeier, who is the chairman of this subcommittee, is not able to be here at the outset. He has asked me to sit in his place. I would like to point out, since there may be some of you who are not familiar with oversight, that the Congress not only has the responsibility of considering and passing legislation on the subjects which are within its jurisdiction but also maintaining oversight—to review the actions of the Government-related agencies involved, to try to keep abreast of whether or not they are carrying out and executing the policies which we have put into law—and that is precisely what we are going to do today.

This subcommittee has the responsibility within the Judiciary Committee of overseeing the Legal Services Corporation and that, of course, would relate directly to its grantees. Specifically, we will review the experiences of the Legal Aid Society of Greater Lynchburg and Virginia Legal Aid Society, and their relationship to expansion of the Legal Services Corporation service in Virginia.

Without more comment, I am going to ask our witnesses to begin. This hearing, had been scheduled in Lynchburg, but because of the difficulty which resulted, we brought Lynchburg to Washington instead. So this morning the first witness in order would be Mr. David Petty, Jr., who is Chairman of the Board of the Legal Aid Society of Greater Lynchburg, from Lynchburg, and with him, I believe, is Mr. J. Gorman Rosenberger, Jr., General Counsel of the Legal Aid Society of Greater Lynchburg.

Would you gentlemen please come forward and we will hear from you.

It has been requested that witnesses be sworn. There being no objection, we will swear the witnesses. Will each of you two gentle-

men please stand and raise your right hand? Do you solemnly swear that in this proceeding you will tell the truth, the whole truth, and nothing but the truth, so help you God?

Mr. PETTY. I do.

Mr. ROSENBERGER. I do.

Mr. DANIELSON. Each of the gentlemen has replied in the affirmative. Very well. We will then commence with Mr. David Petty, Jr.

I might add, since the two of you are together and representing the same group, I don't mind if you interrupt each other occasionally. I would like the record to reflect who is speaking, however.

TESTIMONY OF DAVID PETTY, JR., ESQ., CHAIRMAN OF THE BOARD, LEGAL AID SOCIETY OF GREATER LYNCHBURG, LYNCHBURG, VA., ACCOMPANIED BY J. GORMAN ROSENBERGER, JR., ESQ., GENERAL COUNSEL, LEGAL AID SOCIETY OF GREATER LYNCHBURG

Mr. PETTY. Thank you, Mr. Chairman. My name is David Petty, and on my right is Mr. Rosenberger, and I am a practicing attorney in the city of Lynchburg, Va., which is in the Sixth Congressional District in the central portion of the State of Virginia. I am also the current president of the Lynchburg Legal Aid Society, or Legal Aid Society of Greater Lynchburg is the formal name of it. I am going to refer to that as LASGL, if that would be of benefit, as a short form.

We appreciate very much the opportunity to be here this morning and to present our testimony at the request of some of the members of the committee. We have prepared a written statement. It is not in completely finished form. We would like to have the permission of the committee, and of the Chairman, if that is possible, to submit that written statement for your record; but I would like for my comments to be more informal and directed to you, if that would be permissible.

Mr. DANIELSON. Let me inquire for a moment. Is this written statement to which you referred presently as you furnished it to us, or one you expect to furnish?

Mr. PETTY. It is in between, Mr. Chairman. It has been written up; it is in two parts. It is just not in final, finished type with a cover page; but we have these statements being copied and available to the committee.

Mr. DANIELSON. That is my only question. If you do have them and if you wish to submit them, we would like to have them; and, without objection, they will be received in the record. In fact, they are so received.

[The prepared statement of Mr. Petty follows:]

PREPARED STATEMENT OF DAVID T. PETTY, JR.

Mr. Chairman, my name is David T. Petty, Jr., a practicing attorney in the city of Lynchburg, Va. and the current president of Legal Aid Society of Greater Lynchburg, Inc. I very much appreciate the opportunity of honoring the request to appear before your committee this morning.

I feel it would be helpful in your deliberations to outline briefly the history of Legal Aid Society of Greater Lynchburg, Inc. (LASGL) and then present to you a chronology of contacts with LASGL by the Virginia Legal Aid Society Inc. (VALS) and the Legal Services Corporation (LSC).

Prior to 1969, the Lynchburg Bar Association had been providing free legal services to indigent persons on a volunteer basis by members of the Lynchburg Bar

Association. The current President of the Bar Association, acting with the aid of a committee, would determine need and eligibility of the prospective clients and would then refer the case to members of the bar on a rotating basis.

In the year 1969, several members of the bar association began to study the feasibility of creating a separate funded entity to provide legal services to indigent persons. At that time, there were very few funded legal aid offices in the State of Virginia. The committee of the bar studied the federally funded program then in effect in the area of Roanoke, Virginia and also gave consideration to a locally-funded operation. At the time, the Roanoke office was funded through the Office of Economic Opportunity (OEO). One of the considerations of the bar association was the lack of assurance of continued Federal funds and this factor, along with other considerations, led the bar association to recommend to the entire Lynchburg Bar Association that a locally funded and locally governed legal aid office be created under the enabling statutes then in effect in Virginia. Accordingly, the bar association approached the governing bodies of the city of Lynchburg and the surrounding counties and the city council for the city of Lynchburg, an independent city, and the board of supervisors of the adjacent county of Campbell voted to fund a local office on a ratio based on the population of the two jurisdictions. A charter was obtained from the State Corporation Commission of Virginia and subsequently in the year 1972, an executive director was hired, offices were secured and the delivery of services was commenced.

I was fortunate enough to be one of the members of the bar who began work on LASGL from the very beginning and I recall many long hours spent with the Virginia State Bar and with local government officials in working to implement the local program. Our concern about the questionable continuity of Federal funds at the time later became justified when the OEO was disbanded and funding ceased. On the other hand, the local governing bodies continued to fund LASGL, meeting every request for our budget each year, and the acceptance of LASGL in the community became a proven fact.

As is true with any organization, budgetary needs increased as the office became better known to the community. Services to clients have been increasing steadily in recent years and increased budget requests when needed were met by the city of Lynchburg and Campbell County. In the later part of 1976, our board considered possible funding under title XX for our program. Our executive director and other personnel of LASGL traveled to several meetings and we also had a meeting with the representatives of Legal Services Corporation of Virginia in Lynchburg. As presented to us, title XX funds for our program would have been supplemental to our existing budget and it appeared to our board that the heavy administrative and record keeping requirements connected with title XX funds, along with the apparent necessity for additional space for administrative personnel and equipment, which was lacking at the time, led the board to feel that title XX funding was not then feasible. The question of LSC eventually funding programs on a state wide basis including a future federally funded program for Lynchburg and Campbell County was never discussed.

Local funding for our fiscal year beginning July 1, 1977 and ending June 30, 1978, was secured and in November 1977, the local program was operating with one full time paid executive director, along with a staff consisting of the former city manager and city attorney for the city of Lynchburg, Mr. Robert Morrison, who was serving on a volunteer basis, and Mrs. Marion Baker who had passed the bar examination and was representing clients in the office.

For the very first time, on November 23, 1977, contact was made directly to members of the board of directors of LASGL and to staff by Mr. Henry Woodward, who later turned out to be a field representative for LSC. From my own personal situation, a telephone call was placed to my office on November 23, 1977. Mr. Woodward did not talk to me directly but left a message with my office to the effect that he wished my office to inform me that he had telephoned but that I "would not know who he was and would not know the reason for his call". Mr. Woodward never attempted to call me back and I have never spoken to Mr. Woodward. Mr. Woodward then contacted Gorman Rosenberger our executive director, and a luncheon meeting was arranged for him and a member of our board of directors.

CHRONOLOGY OF CONTACTS BETWEEN LASGL AND LSC

Wednesday, November 23, 1977

On Wednesday, November 23, 1977, Henry Woodward, General Counsel for the Legal Aid Society of Roanoke Valley and a consultant for the Legal Services Corporation (LSC) called the offices of the Legal Aid Society of Greater Lynchburg (LASGL) to discuss a proposed new legal aid organization which would serve Lynch-

burg and Campbell County in addition to other jurisdictions. On the same day Gorman Rosenberger and Bernard Baldwin, a member of the Board of Directors of LASGL, met with Mr. Woodward for lunch to discuss the proposed new legal aid organization.

Mr. Woodward stated that three individuals had formed a "paper corporation" known as the Virginia Legal Aid Society (VLAS) and had submitted a proposal for funding to the Regional Office of LSC in Arlington, Va. It was learned that the VLAS would cover an extensive geographical area including southside Virginia and parts of central Virginia. The city of Lynchburg and Campbell County were included as areas to be served by the VLAS proposal. Concern was expressed about a duplication of services and a duplication of costs since the LASGL serves Lynchburg and Campbell County. Questions were also raised concerning the impact of the proposal on the LASGL. Mr. Woodward said that the Regional Director of LSC should be contacted in Arlington, Va., concerning the specific provisions of the VLAS proposal.

Monday, November 28, 1977

On Monday, November 28, 1977, Gorman Rosenberger called Mr. Walker Thompson, regional director of LSC in Arlington, Va., to learn the status of the VLAS proposal and to learn the specific provisions thereof. Mr. Thompson indicated that the final recommendations from the Regional Office of LSC on the VLAS proposal had been completed and sent to the office of Mr. Thomas Ehrlich, President of LSC, for his approval. It was stated that the final step in the application process of VLAS was Mr. Ehrlich's approval.

On the same day, Gorman Rosenberger placed a second telephone call to Mr. Thompson to request that the final decision of Mr. Ehrlich on the proposal of VLAS be delayed in order that the Board of Directors of LASGL could determine the specific provisions of the proposal and have the necessary time to review it. Mr. Thompson indicated that a thirty day period would have to run before Mr. Ehrlich could approve the VLAS proposal and further that someone from the Regional office of LSC in Arlington would meet with the Board of Directors of LASGL prior to the expiration of the thirty day period.

On Monday, November 28, 1977, Gorman Rosenberger spoke over the telephone with Margaret Poles, an assistant to the regional director of LSC in Arlington, Va. Ms. Poles said that she would meet with the Board of Directors of LASGL on Monday, December 12, 1977, to discuss the provision of the VLAS proposal.

Tuesday, November 29, 1977

On Tuesday, November 29, 1977, an item appeared on page 6, section B of The News of Lynchburg, Va. entitled "Legal Assistance to be Discussed". The news item indicated that there would be a public meeting at 7:30 p.m. on Wednesday at the YWCA at Sixth and Monroe Streets "to discuss the possibility of a legal assistance program for low-income persons". The news article stated that "Lynchburg has been proposed as a location for a program office which would serve the city and counties of Appomattox and Campbell."

On the same day, a letter dated November 28, 1977, was received from Henry L. Woodward of the Legal Aid Society of Roanoke Valley, concerning the luncheon meeting on Wednesday, November 23, 1977. Mr. Woodward indicated that he would be in Lynchburg on Wednesday, November 30, 1977, for the meeting at the YWCA.

The Lynchburg Bar Association was notified of the pending VLAS proposal on this date by a telephone call to Kenneth S. White, President of the Lynchburg Bar Association.

Wednesday, November 30, 1977

On the afternoon of Wednesday, November 30, 1977, Henry Woodward was in Lynchburg again. At the request of Raymond E. Baker, a meeting was held with Henry Woodward, Raymond E. Baker, member of the first Board of Directors of LASGL, the reverend Haywood Robinson, a present member of the Board of Directors of LASGL, and Gorman Rosenberger. The purpose of the meeting was to discuss further with Mr. Woodward the provisions of the VLAS proposal and the effects the proposal might have upon the LASGL.

Discussed at the meeting was the proposed area to be served by VLAS and the size thereof. A question was raised as to why Amherst County had not been included in the proposal. The possibility of a more regional program to cover the entire central Virginia area was discussed. The question of removing Lynchburg, Campbell County, and Appomattox County from the VLAS proposal and submitting a separate application for funding to cover those three jurisdictions and Amherst County was also discussed. Mr. Woodward indicated that the application process had

been completed. A suggestion was made that the city of Lynchburg and the counties of Campbell and Appomattox be conditionally removed from the VLAS proposal for a reasonable period of time to allow the LASGL to submit an application to LSC for funding a legal services program to serve the central Virginia area. The suggestion was also made that the LSC make a partial grant to VLAS (i.e. excluding Lynchburg, Campbell County and Appomattox County for a period not to exceed 6 months) to evaluate an application which might be submitted to cover these jurisdictions and Amherst County. Mr. Woodward further stated that it was his understanding that the 30-day period, which Mr. Thompson had referred to on Monday, November 28, 1977, had almost expired and that the VLAS would begin to set up operations in the very near future.

Those present at the meeting expressed to Mr. Woodward that there was no opposition to the VLAS proposal as it related to the jurisdictions proposed to be served with the exception of Lynchburg, Campbell County and Appomattox County. It was further stated that the VLAS proposal, as it related to the central Virginia area, was incomplete and not the most desirable.

On the night of Wednesday, November 30, 1977, Gorman Rosenberger attended the meeting at the YWCA with Mr. Woodward where the VLAS proposal was again discussed. Both prior to and subsequent to the meeting, the 30-day time period was discussed with Mr. Woodward as was the possibility of establishing a more local and regional program to serve the needs of the central Virginia area, since Amherst County was not included in the VLAS proposal and since the LASGL was already operating in Lynchburg and Campbell County. Furthermore, Mr. Woodward was told that the board of directors of LASGL should be given an opportunity to examine and discuss the provisions of the VLAS proposal before it became final. Mr. Woodward said that he would have the regional office in Arlington send a copy of the VLAS proposal, the recommendations of the regional director of LSC, and any other material related to the proposed new legal aid organization to the LASGL.

Mr. Woodward again expressed his belief that the 30-day time period had not only begun to run but was almost complete and the proposal would become final in the very near future. (The information from Mr. Woodward concerning the running of the 30-day period did not coincide with the information which had been received from Mr. Thompson on Monday, November 28, 1977.)

On this day a letter was sent to Kenneth S. White, president of the Lynchburg Bar Association, concerning the pending VLAS proposal for a new legal aid organization in southside Virginia and parts of central Virginia.

Thursday, December 1, 1977

On Thursday, December 1, 1977, Gorman Rosenberger contacted David T. Petty to inform him of the events which had transpired on the preceding date with particular emphasis on the question of whether or not the 30-day period had begun to run and, if so, when. Mr. Thompson had indicated on Monday, November 28, 1977, that he and his staff would be out of town for the remainder of the week at a conference in California. Therefore, it was not possible to contact Mr. Thompson concerning the 30-day time period. Since there was a question concerning the time remaining before the VLAS proposal would become final, and since the regional office staff of LSC in Arlington was out of town, Gorman Rosenberger called Mr. Don Ruby in the office of M. Caldwell Butler, Representative to the House of Representatives from the Sixth District of Virginia, to determine if he had any information concerning the VLAS proposal and, if so, how much time was remaining before the administrative process would be final. Mr. Ruby assured Mr. Rosenberger that he would promptly look into this matter and call back.

On the afternoon of Thursday, December 1, 1977, Mr. Ruby called back to state that notice of the VLAS proposal needed to be published in the Federal Register at least 30 days prior to any further action being taken on the proposal. Mr. Ruby further stated that no notice had been published in the Federal Register concerning the VLAS proposal as of this date.

Friday, December 2, 1977

On Friday, December 2, 1977, the board of directors of LASGL met to discuss the events which had occurred concerning the VLAS proposal and to discuss its possible effect on the operation of LASGL. The board of directors was informed that another meeting would be held on December 12, 1977, at which time Margaret Poles, a representative from the regional office of LSC would be present to discuss the VLAS proposal. The board of directors asked that a copy of the VLAS proposal be obtained to consider it.

Monday, December 5, 1977

On Monday, December 5, 1977, a call was made to Mr. James Ghee, a member of the board of directors of VLAS, by Gorman Rosenberger, to attempt to set up a meeting with Mr. Ghee, Rev. Haywood Robinson and Gorman Rosenberger to inform Mr. Ghee of the concerns of the board of directors of LASGL and the desire of LASGL to submit a separate application to the LSC for a legal services program to serve the following areas of central Virginia: Lynchburg, Campbell County, Appomattox County and Amherst County. A meeting was scheduled for Friday, December 9, 1977 at 2 p.m. at Mr. Ghee's office in Farmville, Va.

On this day Mr. Walker Thompson called inquiring about Mr. Rosenberger's call to Mr. Don Ruby on Thursday, December 1, 1977. It was explained to Mr. Thompson that after speaking with him on the telephone on Monday, November 28, 1977, concerning the time remaining before the VLAS proposal would become final, Mr. Woodward had indicated on Wednesday, November 30, 1977, that he believed the 30-day period to be running and the proposal to become final very shortly. Mr. Thompson then said that he understood the reason for the call to Mr. Butler's office.

During the conversation with Mr. Thompson, it was explained that the board of directors of LASGL was holding meetings and discussing the VLAS proposal, and would like to see a copy of the proposal and have a reasonable amount of time to study it. Mr. Thompson said that a copy of the proposal, the recommendations from his office concerning the VLAS proposal, the Legal Services Corporation Act, the regulations and the guidelines would be sent immediately.

When Mr. Thompson was informed that the Board of Directors of LASGL was considering alternatives to the VLAS proposal, said that the time for filing applications had passed. Mr. Thompson indicated that he did not desire to pursue any other alternatives to the VLAS proposal.

Wednesday, December 7, 1977

Mr. James Ghee, a member of the board of directors of VLAS called to say that he had discussed the meeting scheduled for Friday, December 9, 1977 with the organizers of VLAS and two additional persons who were assisting with the proposal. Mr. Ghee indicated that the other members of the board of directors of VLAS preferred to meet with Rev. Haywood Robinson and Gorman Rosenberger as a full board. Mr. Ghee said that the members of the VLAS board of directors would not be able to meet as a board until Monday, December 19, 1977, at 3 p.m. in Farmville at Mr. Ghee's office. It was explained to Mr. Ghee that the purpose of the meeting on Friday, December 9, 1977, was to inform him of the factors which the LASGL board of directors was considering and to inform him of the events which had occurred since November, 1977. Mr. Ghee said that he would prefer to wait until the VLAS board of directors could meet together.

A call was then placed to Reverend Robinson explaining the conversation with Mr. Ghee. Reverend said that he would attempt to call Mr. Ghee.

On December 7, 1977, a letter was written to Mr. Walker Thompson, regional director of LSC in Arlington, Va., outlining the events between November 23, 1977, and December 2, 1977, concerning the VLAS proposal. The purpose of the letter was not only to inform Mr. Thompson of what had occurred since November 23, 1977, but also to request a copy of the VLAS proposal, a copy of the enabling legislation with amendments, and a request that no further action be taken on the VLAS proposal as it related to the area served by the LASGL for a period of at least 180 days in order that the board of directors of LASGL could consider the proposal and possible alternatives thereto.

Thursday, December 8, 1977

A copy of the proposal of the VLAS was received from the regional office of LSC in Arlington, Va. Enclosed also were the recommendations, dated November 28, 1977, of the regional director of LSC in Arlington, Va. (letter dated December 6, 1977)

Friday, December 9, 1977

On Friday, December 9, 1977, a call was received from Rev. Haywood Robinson who said that he had contacted Mr. Ghee by telephone. Mr. Ghee related the same information to Reverend Robinson as he had done on Wednesday, December 7, 1977. The meeting for Friday, December 7, 1977, was cancelled and a new meeting set for Monday, December 19, 1977, at 3:00 p.m. in Farmville at Mr. Ghee's office.

Raymond Baker called to say that a Notice had appeared in the Federal Register, dated Wednesday, December 7, 1977, concerning the VLAS proposal to serve some parts of the central Virginia area.

Monday, December 12, 1977

The board of directors of LASGL met to hear a presentation by Margaret Poles from the regional office of LSC. Henry Woodward was also present for the meeting.

Friday, December 16, 1977

A reply from Mr. Walker Thompson to the letter of December 7, 1977, from J. Gorman Rosenberger, requesting a delay in action on the VLAS proposal as it related to the city of Lynchburg, Campbell County and Appomattox County, was received. Mr. Thompson said in his letter that he would recommend against any delay in the consideration of the VLAS proposal. He said that delay would "inevitably postpone the delivery of legal services in areas which have in excess of 100,000 eligible clients".

A reply to Mr. Thompson's letter dated December 15, 1977, was sent to Mr. Thompson on Friday, December 16, 1977. The letter was sent to clarify any misunderstanding which may have appeared from the letter of December 7, 1977, requesting a delay in the proposal as it related to the service area of the LASGL. The letter of this date again emphasized that LASGL was not requesting that the entire proposal be delayed, but only that Lynchburg, Campbell County and Appomattox County be excluded at this time. The reason for such request was to give LASGL an opportunity to submit an application to cover the central Virginia area (Lynchburg, Campbell County, Appomattox County and Amherst County). It was emphasized that LASGL would continue to provide legal services during the time period in which such an application was reviewed.

On Friday, December 16, 1977, a meeting was held with M. Caldwell Butler, Representative from the Sixth District of Virginia to the House of Representatives. Attending the meeting were David T. Petty, Jr., president of LASGL; David Hawkins, board member of LASGL; Rev. Haywood Robinson, board member of LASGL; Raymond E. Baker, former board member of LASGL; Robert D. Morrison, attorney with LASGL; J. Gorman Rosenberger, director of LASGL. The purpose of the meeting was to review with Congressman Butler the events since November 1977, and to seek advice on how LASGL could submit an application to LSC to provide legal services to the central Virginia area.

Subsequent to the meeting with Congressman Butler, those in attendance decided that efforts should be concentrated on LASGL submitting a proposal to LSC. Therefore, it was decided that the meeting with the VLAS board which was scheduled for Monday, December 19, 1977, should be postponed indefinitely in order that work could begin on a proposal for LASGL.

A call was made to Mr. Ghee on this day to explain to him the ideas and intentions of LASGL. It was explained to Mr. Ghee that LASGL was requesting that Lynchburg, Campbell County and Appomattox County be excluded from the VLAS proposal in order that LASGL could submit a proposal to cover those areas and another central Virginia jurisdiction, Amherst County. It was further explained that the application of LASGL proposed to provide the same program as that of VLAS with the following differences: (1) the area served; (2) the name of the organization; and (3) the members of the board of directors. Mr. Ghee replied that it appeared to be a question of who would control the central Virginia area. A letter summarizing the basic points of the conversation with Mr. Ghee was sent to him on December 16, 1977.

Tuesday, December 19, 1977

On Tuesday, December 19, 1977, Mr. Thomas Ehrlich, president of LSC, called to say that he was delaying any decision on the VLAS proposal until January 31, 1978. Mr. Ehrlich indicated that the LASGL could submit comments and recommendations on the VLAS proposal and file an application for funding during this period of time if it so desired.

It was explained to Mr. Ehrlich that the LASGL did not desire to delay the delivery of legal services in the other proposed service areas of VLAS and that the LASGL was requesting that only Lynchburg, Campbell County and Appomattox County be removed from the VLAS proposal for a reasonable period of time (until an application could be submitted by LASGL to cover the central Virginia area. It was further explained that LASGL would continue serving Lynchburg and Campbell County until such an application was reviewed. Mr. Ehrlich said, however, that the entire VLAS proposal would be delayed until after January 31, 1978.

Wednesday, December 20, 1977

On Wednesday, December 20, 1977, a letter was sent to Mr. Thomas Ehrlich confirming the conversation of December 19, 1977, that no further action would be taken on the VLAS proposal until after January 31, 1978.

December 1977

During the latter part of December 1977, a call was received by Gorman Rosenberger at the offices of the LASGL from Petersburg Legal Aid Society. The caller wanted to know the steps which the LASGL had taken upon being informed that LSC was planning to fund another legal aid society in Lynchburg. It was then indicated that the Petersburg Legal Aid Society was a locally funded and title XX funded organization. Further, LSC was proposing to establish legal services with Federal money in Petersburg. The caller indicated that they had no knowledge of this act of LSC although the Petersburg Legal Aid Society was not only in contact with the Legal Services Corporation of Virginia but also with the LSC regional office in Arlington, Va. Mr. Rosenberger indicated that the Petersburg Legal Aid Society might contact its Congressman to determine the status of the LSC's plans. A few months later it was said that the take over of Petersburg was a mistake. A check of the Federal Register, dated December 7, 1977, will show that the Neighborhood Legal Aid Society in Richmond, Va., published a notice of its intention to cover Petersburg under a LSC grant.

Tuesday, January 17, 1978

On Tuesday, January 17, 1978, the board of supervisors of Campbell County at the regular meeting passed a resolution supporting the LASGL application for a grant from LSC.

Wednesday, January 18, 1978

On January 18, 1978, a copy of a letter from Walker Thompson to Kenneth S. White, president of the Lynchburg Bar Association was received from Mr. White giving notice to the Lynchburg Bar Association that LSC was considering an application by VLAS for a grant to provide civil legal services to the poor in the city of Lynchburg.

Thursday, January 19, 1978

On Thursday, January 19, 1978, Walker Thompson, regional director of LSC in Arlington, Va.; Margaret Poles, assistant to Walker Thompson; and Gregg Kreech, assistant to Walker Thompson, visited the office of LASGL. During the 2-hour morning visit, Walker Thompson interviewed J. Gorman Rosenberger; Margaret Poles interviewed Marion T. Baker and Robert D. Morrison; and Gregg Kreech interviewed Mary Riley. In the afternoon Gregg Kreech interviewed J. Gorman Rosenberger and Mary Riley. A board of directors meeting of LASGL was scheduled for 4 p.m. on January 19, 1978, to meet with the regional director and staff of the LSC regional office. Because of a heavy snowstorm only three members of the board were able to attend and the meeting adjourned early in order that the LSC staff could get to the airport.

The interviews consisted of questions asked by each LSC representative, of the personnel and board members of LASGL concerning the present operations of the LASGL.

Monday, January 30, 1978

On Monday, January 30, 1978, a resolution from the Appomattox Bar Association was received supporting the application of LASGL to establish legal services for low-income citizens in the central Virginia area.

On Monday, January 30, 1978, a called meeting of the Lynchburg Bar Association was held. A presentation was made to the bar association concerning the events from November 1977 to the present and an explanation was given of the application to be submitted by the LASGL to LSC. A motion was made and unanimously passed by the Lynchburg Bar Association endorsing the application of the LASGL to LSC.

A letter was written to Mr. Walker Thompson in which the following items were included:

1. Application for funding of a legal services program to serve the Central Virginia area (Lynchburg, Campbell, Appomattox County and Amherst County);
2. Written comments and recommendations concerning the proposal of VLAS as it relates to the city of Lynchburg, the county of Campbell, and the county of Appomattox;
3. Letters of support from community agencies; organizations; bar associations; court and court services; legislators; and others.

In the letter it was again explained that the LASGL did not oppose nor did it desire to delay the implementation of services by VLAS to the southside region of Virginia. The request was that Lynchburg, Campbell County and Appomattox County be removed from coverage of the VLAS in order that a central Virginia area proposal could be evaluated by LSC.

Tuesday, January 31, 1978

On January 31, 1978, Gorman Rosenberger delivered four copies of the required forms and applications (for a legal services program to serve central Virginia) to Gregg Kreech at the Arlington Regional Office of LSC.

Friday February 3, 1978

On Friday, February 3, 1978, Gorman Rosenberger met with Mr. Wallace Claire, the executive director of the Central Virginia Commission on Aging, and with Ms. Janie Dowdy of the Commission on Aging to discuss the application by the LASGL on January 31, 1978. The LASGL application provided that the Commission on Aging would select a client member to the board of directors.

Mr. Rosenberger reviewed with Mr. Claire the provisions of the LASGL proposal and the selection of a client representative to the board of directors, if the proposal were approved. Also discussed was the possibility of the Commission on Aging submitting names of persons to serve on the client committee which was to be established under the proposal. Mr. Claire indicated that he had been in contact with someone connected with LSC and knew of the VLAS proposal. Mr. Claire indicated his support for a federally funded program but said that he preferred the proposal of LASGL over the VLAS proposal.

Mr. Claire said that he would write a letter of support for the proposal of LASGL to LSC. In addition, Mr. Claire indicated that he would submit the names of persons qualified to serve on the board of directors and the client committee. Several calls were made to Mr. Claire subsequent to the meeting on February 3, 1978, to obtain the names of possible board and/or client committee members. Mr. Claire submitted the names of approximately nine persons with representatives from each jurisdiction to be covered by the LASGL proposal. Each of the persons submitted by Mr. Claire were contacted, except for two who could not be reached, and each agreed to serve either on the board or the client committee, if and when the LASGL proposal was approved.

Each time that Mr. Claire was contacted concerning the names of persons to serve on the board and/or client committee, an inquiry was made concerning his letter of support since a decision from LSC was expected shortly. Each time Mr. Claire indicated that he was either working on the letter, or it had been dictated, or was being typed. It is unknown whether the letter was ever sent to LSC and what it said.

Friday, February 10, 1978

On Friday, February 10, 1978, David Hawkins, a member of the LASGL Board of Directors attended the regular meeting of the Appomattox County Board of Supervisors. After an explanation of the application for funding by LASGL to LSC for a legal services program in central Virginia, the Appomattox County Board of Supervisors unanimously endorsed the LASGL proposal.

Tuesday, February 14, 1978

On Tuesday, February 14, 1978, David Petty, Gorman Rosenberger, and Robert D. Morrison attended the meeting of the Amherst County Bar Association. An explanation of the status of the proposal of LASGL was made at the meeting, after which the Amherst County Bar Association unanimously endorsed the LASGL proposal for legal services to the central Virginia area.

On the night of Tuesday, February 14, 1978, David Petty, Gorman Rosenberger, and several members of the board of directors attended the regular meeting of the city council of Lynchburg. A presentation was made to the council concerning the application of the LASGL for funding to the LSC. Mr. Charles Mangum, a former member of the board of directors of LASGL and a present member of the VLAS Board of Directors, also made a presentation to the council concerning the VLAS and the LASGL proposal. Thereafter the city council of Lynchburg endorsed the application for funding to LSC by the LASGL by a vote of 6-1. The dissenting councilman indicated that he was in favor of both a LSC funded legal services program and a locally funded program.

Tuesday, February 21, 1978

On Tuesday, February 21, 1978, Gorman Rosenberger attended the regular meeting of the board of supervisors of Amherst County. An explanation was made concerning the application for funding by the LASGL to LSC to provide legal services to the low-income persons in the central Virginia area. Thereafter, the Amherst County Board of Supervisors voted unanimously to endorse the LASGL application for funding.

January-February 1978

During the month of February 1978, extensive contacts were made with groups, agencies, organizations, and individuals in all of the areas proposed to be served in the LASGL application. The purpose of contacting the various groups and individuals was twofold: (1) to inform as many people as possible of the LASGL proposal; and (2) to request that each submit the name or names of individuals who would be willing to serve on the board of directors or client committee of LASGL provided the application was approved by LSC:

1. The Lynchburg Community Action Group
2. United Way of Central Virginia
3. Lynchburg branch of WAACP
4. Black Baptist Ministers Conference of Lynchburg and Vicinity
5. Commission on Aging
6. Representative from Shalom Apartments
7. Lynchburg Covenant Fellowship
8. The Lynchburg Welfare Department
9. The Appomattox County Welfare Department
10. The Amherst County Department of Welfare
11. The Campbell County Department of Welfare
12. Lynchburg Youth Services, Inc.
13. Family Services of Central Virginia
14. Central Virginia Mental Health Clinic
15. Central Virginia Mental Retardation Services
16. Information and Referral Center of Central Virginia
17. Sheltered Workshop of Lynchburg
18. Florence Crittenton Services of Lynchburg
19. YWCA
20. Alcoholic Rehabilitation Center of Central Virginia
21. Lynchburg Redevelopment and Housing Authority (tenant councils)
22. The Lynchburg Bar Association
23. The Amherst County Bar Association
24. The Appomattox County Bar Association
25. The Native American Program in Amherst County

Much time and effort were spent in contacting, informing, and obtaining names of potential board and client committee members. In addition, the LASGL received additional support for its proposal to provide legal services to the central Virginia area from those contacted.

During the months of January 1978, and February 1978, contacts were made with many of the local agencies and individuals that either refer clients to LASGL or to which clients are referred by LASGL. The support received, in the form of letters, from the agencies and individuals for the LASGL proposal was tremendous. In a period of approximately 1½ months, LASGL received support for its proposal to LSC from every local governing body in the area to be served; from every bar association in the area to be served; from numerous agencies and organizations in the area to be served; from the courts and court services; from state legislators in the area to be served; from several individuals interested in legal services; and from former clients of LASGL. It appears that LASGL made more contacts with those interested in legal services in the central Virginia area in a period of 1½ months than was made by LSC or VLAS in more than 9 months from the date the VLAS application was submitted.

Mr. PETTY. Thank you, sir.

Mr. DANIELSON. Do we have the copies then?

Mr. PETTY. I think they are being photocopied right at the moment, Mr. Chairman. They should be here very shortly.

Mr. DANIELSON. Thank you.

Mr. PETTY. I thought I would give you some background of our operation in the Lynchburg area and then in a chronological sense bring you forward to our contacts with the Virginia Legal Aid Society, which we want to call VLAS, and the Legal Services Corporation.

I have been practicing law in Lynchburg for about 14 years and prior to 1969 our legal aid in the Lynchburg area, which is a standard metropolitan population area, was strictly on a voluntary basis, operated by our bar association. What we were doing at that

time was to have the then president of the bar association, who was acting with the aid of a committee, receive requests from indigent persons for legal aid or legal help on problems where they were not able to afford an attorney, or just upon inquiry. The president of the bar would determine eligibility based on some standards we had at that time and determine if there was a problem that could be handled on a gratis basis by practicing members of the bar, which were then rotated to members of the bar, and those problems were handled.

In about 1969, we felt in our area that we should be giving some consideration to a funded entity, some ongoing organization, to provide legal services to indigent persons in the area, and various members of the Lynchburg Bar Association, along with those members from the adjacent county of Campbell, bearing in mind that in Virginia we have independent cities—they are not concurrent jurisdictions of city and county; we have the independent city of Lynchburg and Campbell County, which is adjacent to us, being our most populous county—members of those two bar associations started looking into ways to provide better legal service.

We looked, for example, at a funded program that was then in effect in Roanoke, Va. In 1969, I believe, this program was ongoing; had been set up and funded and was underway. I believe Mr. Pernell Eggleston was involved in that program over there. We asked him to come to Lynchburg and to give us the benefit of their experience with their program. They were federally funded under the Office of Economic Opportunity—which we will call the OEO—at that time a very active, fully staffed, ongoing program.

I might say by way of background, in the Lynchburg area we are in a more conservative area as it relates to, I think, Federal-State relations. We were aware of that when we looked at our program in 1969 and we compared the federally funded program over in Roanoke, which is some 60 miles away, to perhaps a locally funded, by local governing bodies, and a local-controlled organization.

We felt that we could not be sure of ongoing Federal funds and that along with, as I say, some of the more conservative elements in our community, we decided that we should incorporate as a nonstock, nonprofit corporation, under the laws of the State of Virginia which were in effect at that time. They had special statutes, I think, relating to legal aid societies, and we did so. We incorporated in 1969 and we then began efforts to obtain local funds for our program.

We went to the surrounding counties of our metropolitan area and to the city of Lynchburg, and it ultimately turned out that the city council for the city of Lynchburg and the board of supervisors for Campbell County did agree to fund our program on a ratio basis, based on population, and we hired personnel, secured quarters—all this taking a good bit of time.

We actually started our operation to run a legal services program in 1972. So from 1972 our LASGL—Legal Aid Society of Greater Lynchburg—has been underway and has been continuously funded by our two government jurisdictions. We have had some increase in that budget, of necessity, every year. We have been fully supported by the governing agencies and once we got underway, in 1972, and continued up through the present day, I think we

have gained acceptance every year in our community; and there are statistics that reflect the services rendered, which clearly show that we have been accepted, and we are rendering, I think, a very good service.

One thing that happened during that period of time which I think is of interest, as we originally looked at our program, the OEO, I think, in the early 1970's did, in fact, disband and the funding for that federally funded project was stopped. In the meantime, we were able to continue on with our local funds and I think that concern became a reality as we got going.

Then, in 1977, we went to our two governing bodies—the council for the city of Lynchburg and the board of supervisors for Campbell County; we were funded for this current fiscal year which ends June 30, starting last July 1, and in our office in November of this past year we had Mr. Rosenberger, who is our full-time executive director. We had assisting us the former city manager and former city attorney for the city of Lynchburg, Mr. Robert Morrison, who was performing legal services, representing clients on a volunteer basis.

We had a Mrs. Marian Baker, who is a lady who has completed her law degree and passed the bar, and was also rendering legal services. We had support from the local colleges in the area—Randolph-Macon Woman's College, providing volunteer help for our office. I think we had a very active, ongoing operation.

In November of 1977—I think it was a Wednesday before Thanksgiving—something like the 23d—I had a call to my office which I did not take personally but it was a message left at my office, that Mr. Henry Woodward wanted me to know that he had called my office but that we would not know who he was or why he would be calling; and so I got that message on my desk and very shortly thereafter I got a call from Mr. Rosenberger who had said Mr. Woodward had also contacted him. Well, it developed that Mr. Woodward is the, I think, executive director for the Roanoke legal aid program, which is still a federally funded program, and who had been contracted, his services had been contracted, by the Legal Services Corporation to do some field investigations in relation to a pending grant proposal that had been filed by the Virginia Legal Aid Society, VLAS. He met with Mr. Rosenberger, our executive director, and one of our board members, and at that time he began to relate to us for the very first time the pending proposal that had been filed, I think, in June 1977, by VLAS. He related to us that VLAS had formed what they call a paper corporation, which is simply three incorporators under the Virginia law, to form a corporation, and the application had been filed in Richmond, and they had also filed a grant application with the regional office in Arlington of the Legal Services Corporation, to serve, I think, originally some 34 counties and cities in central and south and western Virginia.

We had, as I say, no idea that this was going on. No one ever had told us or come to us, that this was being done, not that we felt like that we had any privity with the people, but we had never heard of the proposal; and Mr. Rosenberger met with Mr. Woodward. He asked him the status of the proposal. It seemed to come across to us that the proposal had been in, that the cutoff point for

filing any new proposals had passed; that the proposal was being handled by the regional office here in Arlington, Va., and would be shortly, if not already, passed to the president's office of Legal Services, Mr. Ehrlich, for his ultimate approval.

We began all of a sudden to realize that something was going on that would vitally affect Lynchburg, because in that proposal the 34 jurisdictions had been cut back by the regional office to 23, which included 18 counties and five cities, a rather large geographical area, and included in those 23 jurisdictions were the city of Lynchburg and the county of Campbell, being two jurisdictions we were already serving. And as we looked at this, it became apparent to us that this was going to be a duplication of legal services, of what we had been providing for some 5 years, and that duplication of service and effort was quite apparent to us right off the bat.

We also—being aware of pressures on localities for local funding of any sort of program—were readily aware that if the proposal went through as projected without us doing any sort of investigation, that our program really was coming to an end, because we felt like we could not have a duplicate service, one federally funded and one locally funded.

We had numerous conferences right around the end of November. There was some confusion as to when the 30-day period for local comment on the pending proposal was to expire. We had a conflicting report from Mr. Woodward, who wasn't fully aware of all the facts.

Mr. Thompson's office was contacted. He said that the proposal had to be published in the Federal Register, and there was a 30-day period from that point on for local comment and input; and then Mr. Woodward, I think, talked to Mr. Rosenberger at that time and he said that the time period was running already; and we tried to get back to Mr. Thompson's office. They were out of town and so we contacted Mr. Butler's office, who represents our district, to find out the exact status of this proposal.

We were then informed that the proposal was going to be published in the Federal Register and then there would be a 30-day period thereafter. The proposal was published in early December in the Federal Register. I think it was December 7, and that started the 30-day period.

When we saw what was happening, we asked the regional office to send to us the grant proposal filed by the VLAS, and when that was sent to us, we could see that they had proposed a central office in the capital city of Richmond, which was not even in the area to be served; it had a 13-man board to service some 23 jurisdictions.

Mr. DANIELSON. Twenty-three?

Mr. PETTY. Eighteen counties and five cities, yes, sir.

We saw it was going to duplicate the service in our particular area and we were the only two out of the whole area that had already existing legal services. The other areas in that proposal had none and probably would not get any, but for the LSC, and we were not opposing that, but we could see there would be a duplication of services as far as we were concerned and we had an ongoing caseload that we didn't know how to handle, what sort of transition might take place; and we felt like the board representation proposed by the larger proposal was just not realistic in getting any

sort of the client input or any sort of representation from members of the bar or eligible clients in an area that large.

So when we looked at that proposal, we also found in it a very disturbing comment that stated that the 23 jurisdictions were not being served with any form of legal service, with the exception of the city of Lynchburg and the county of Campbell, and that was referred to in several places, one as a "token operation" and one as a "one-man operation"; and we felt that to allow that to go unchallenged would be an injustice and really was a misrepresentation of the facts.

So we looked at what was happening and we felt that we had several alternatives as a board of directors on our local program. We had some people that said, "Well, since the Federal program is coming in, I don't think we can stop it; we might as well disband." Others said, you know, talked about even filing a suit, but the board itself—and, I think, several members of this board—felt that we could take a positive approach on the situation, and not a negative one; and so all of our efforts and discussions with everyone involved related to trying to improve on what had been done as it affected our area. So we did not object to the funding of this VLAS proposal, except as it affected the central Virginia area. What we, in effect, wanted to do was to allow legal services to go forward in unserved areas but allow the Lynchburg and Campbell County jurisdictions, as well as Appomattox, which was included—that is an adjacent county to the city—then to pick up a county on the north of the city which is called Amherst County, that was not included for some reason in the original VLAS proposal, and to have an identifiable community of a geographic and market area, with traditional, cultural, and other factors in the Lynchburg area, with Lynchburg the center, Amherst, Appomattox, and Campbell surrounding it, being separated out and funded with a separate proposal under the Legal Services Corporation.

We made this desire known to the regional office and Mr. Thompson told us that he felt like, at this point, he could not stop implementation of the ongoing consideration of the grant proposal which included Lynchburg and Amherst, that it was, in effect, too late. He said he had 100,000-plus poor persons to service in this large area and that it was really too late to change that.

Well, we made it perfectly clear that we weren't trying to stop the whole proposal; we wanted to separate out and have ours treated separately.

Mr. DANIELSON. Let me interject a question: You say you were informed that he had 100,000, approximately, poor persons to serve. Did that include those within your Lynchburg-Campbell County/Appomattox County and Amherst County?

Mr. PETTY. Yes. I think it was more like 107,000 plus, but did include—Mr. Rosenberger check me on this—the areas of Lynchburg, Campbell, Appomattox and Amherst.

Mr. DANIELSON. If you had separated those counties and Lynchburg out, what number would have been within your Lynchburg group, and what number would have been outside of it?

Mr. ROSENBERGER. According to the 1970 Census figures, if we had taken the three jurisdictions in central Virginia which were included in the Virginia Legal Aid Society proposal out, there

would have been somewhere around 15,000 people, give or take a few, and then what we proposed to do was to bring in Amherst County, which was not in the other proposal, which would have brought the total number up to close to 19,000 poor people in those four jurisdictions.

Mr. DANIELSON. What you are saying—and this is Mr. Rosenberger speaking?

Mr. ROSENBERGER. Yes, sir.

Mr. DANIELSON. What Mr. Rosenberger is saying is that the Lynchburg-Campbell County/Appomattox County areas would include around 15,000 and by including Amherst County, which had not been included in the Virginia Legal Services group's proposal, you would raise your number to 19,000?

Mr. ROSENBERGER. Yes.

Mr. DANIELSON. From which, I guess, we can infer that there are about 85,000, more or less, in the area within the VLAS proposal and outside of the LASGL group; is that correct?

Mr. ROSENBERGER. That is close. I think it is approximately 107,000 people in the—

Mr. DANIELSON. I am only seeking to get a rough idea and certainly wouldn't hold you to the precise figures.

Continue. I am sorry to interrupt.

Mr. PETTY. That is quite all right, Mr. Danielson.

As I say, we decided, really, that we felt like that there were a number of deficiencies in the VLAS proposal. The fact they left out Amherst, the fact that there would be an extremely large area compared to what we think could be feasibly handled and represented by client input and by board of directors' input, and for a number of other reasons, we felt that we could improve on the proposal of the VLAS, not the least of which was that we are in a separately—or separate and distinct part of Virginia from the great area to be served by VLAS, generally called the southside area of Virginia, which is along the border between Virginia and Carolina, a predominantly rural area, whereas the Lynchburg area is in the central Piedmont.

So we did get a telephone call from Mr. Ehrlich, I think around December 19, in which he had allowed us until January 31 to file a proposal of LASGL; and so we began work on that proposal and devoted a lot of hours naturally to the preparation of that; and what we did was to solicit the support of the one city and the three-county jurisdictions to be served under this proposal, and file indication of that support along with our grant proposal.

I must say one of the things that we ran into in filing that grant proposal, which we did get in on the last day, January 31, 1978, is that we convinced counties such as Appomattox County and Amherst County, which have not been particularly open to federally funded and supported programs—as a matter of fact, were not even supporting our own local program due to lack of funds—but we went to each of these governing bodies, the boards of supervisors in these counties and the city council, got endorsements of support for expanding our program, using an existing vehicle of a corporate setup, switching over our whole operation and philosophy to comply with the LSC guidelines to be a separately funded, federally funded program, and include those jurisdictions in there; and they

supported that concept, I think, primarily because of the community of interest and the geographical area involved; and, of course, I think one of the other obvious factors was, I think, they could see that there was a much larger jurisdiction to be served by this VLAS proposal under which they would have very little input if they did not, you know, help us with that proposal.

We really saw a major turnaround, I think, in philosophy in our local area in support of this type of federally funded program, and I think we have unanimous support from all of our governing bodies, from our area legislators, from all of the bar associations, from our courts, from the agencies which deal with our program, and everybody dealing with it for the last 5 years or so, 5 or 6 years.

There has been some criticism of our program, as Mr. Thompson's report points out, but by and large I can say from my own personal experience I have never seen as much support gathered in a short period of time for a program.

Nevertheless, we got that proposal in and subsequent to getting it in, the regional director, Mr. Thompson's office, came up with a proposal, or a recommendation, I guess we want to call it, going to the Legal Services Corporation.

Mr. DANIELSON. Do you know his name? Will you state it so it is in the record?

Mr. PETTY. Yes, sir. Walker Thompson.

Mr. DANIELSON. You say he is the regional director?

Mr. PETTY. He is the regional director, yes. He is the regional director of this Legal Services Corporation office in Arlington. His recommendation to Mr. Ehrlich, the president of the Legal Services Corporation, did not follow our request, our proposal, from LASGL, nor did it follow the original and amended proposal that we had seen filed by VLAS. They filed one in June and amended it in November of 1977. His recommendation to Mr. Ehrlich changed the central office from Richmond to Lynchburg and made a number of recommendations that we had seen for the first time, some of which were to try to coordinate efforts with the local LASGL operation, to try to see if our name could be utilized to capitalize on the good will that had been built up over 5 or 6 years, to see if we could allow the Legal Services Corporation to bring Amherst County in. And, in general, I think they utilized some of the positive elements in our proposal that were missing in the original one and came up with what we call a hybrid proposal.

We still felt that this does not adequately reflect citizen and bar and court and agency input in an area as large as the Legal Services Corporation wishes to fund, so we felt we had an obligation to continue to seek approval of our grant proposal.

Mr. Ehrlich did make a trip to Lynchburg in early March to discuss the recommendation of the regional office, and we made our concerns known to him, that we felt like it still had deficiencies; and on his return to Washington he subsequently upheld or adopted the proposal, or the recommendation, of his regional director, Mr. Thompson, and did not fund our grant proposal.

We did continue beyond that point our efforts; we made an effort to see what sort of administrative review existed under the Legal Services Act. It doesn't seem to be very well articulated, where we

go from the decision of the administrative end of it, the president's office.

We became aware of a similar situation that may have occurred in Prince Georges County, Md., in which they actually filed a suit in the Federal court there to stop implementation of a duplicate service on existing programs. We were told by the attorney who represented the local people there that they felt like a summary judgment motion was going to be made and granted, upholding the decision of the Legal Services Corporation; so we decided we were not going to accomplish anything by filing suit.

We had a continuing caseload that had to be served and we didn't have time to be filing suits and letting our people who had ongoing cases go unserved.

Second, we had to come up with funds to keep our caseload going while this transition takes place. I also tried to get in touch with the dean at—I think it is Dean Cramton—is it Cornell? I believe it is—Cornell University, who is the Chairman of the Board of Directors of Legal Services Corporation; couldn't get him, so I called Mr. Broughton, who is also on the Board and an attorney in Raleigh, N.C., discussed our concerns with him, and he said he would take it up with his Board members; and I don't think that ever came to fruition.

So we were resigned to the fact that we were going to have the duplication come in and we were going to try to keep our program going as best we could for the transition, to keep our name and identification while this took place. Then it was about that period of time, I think, the Oversight Committee hearings became a reality and that is why we are here today.

The only thing I think I would like to comment, just several comments, on what we feel has concerned us about the situation as it applies to Lynchburg—and I will let Mr. Rosenberger supplement what I am saying when I am through—is that we really had, we thought, a program that is not perfect, but it was an effort made at a time in 1969 and 1970 and the early 1970's to provide legal services to our area, and there were very, very few other areas in Virginia doing that.

We feel like in a conservative area like Lynchburg—we were very proud of the fact we were able to get something going and get public support for it. That public support kept going and I think we created a good public image and are performing a good service. We are subject to criticism like anybody else is, but we think we were doing a good job with what we had to work with; but when the Legal Services Corporation accepted the conclusions in the VLAS proposal that we had a token, one-man office, without making any investigation, without making any contact to us whatsoever, never a phone call, never the courtesy of telling us what was happening, but merely sending out a field agent to tell us that the handwriting was really on the wall, that the proposal was in, it was too late to change that, that we were going to all of a sudden be included in a very, very large area geographically—that spelled the end to us as we saw their effort.

When we had a perfectly legitimate corporate setup, we could expand our services into areas that weren't even served by the original proposal, we had felt like we had to take some action to

try to correct that oversight as we saw it. The impression we got was that our operation was just simply ignored when the proposal by VLAS was filed and the Legal Services Corporation just accepted that assertion that we were a token and one-man operation. The input that we were called upon to give to Legal Services just did not exist. We were not asked to do anything. It was only after we were able to get an extension of time to get a proposal in that the Legal Services Corporation staff—I think Mr. Thompson, a Gregg Kreech, and Margaret Poles—came to Lynchburg, some of those on more than one occasion, did some investigation of our existing program, and did some interviews with us, asking us questions about how our program had been run—that was the only time that we had any direct contact with these people; and, of course, it generally turned out that they felt that some of our strong points were good enough to be included in the proposal that was ultimately sent to the national office, but that our proposal has not been granted and we feel like that really, rather than putting an existing program out of business, it ought to be expanded upon if it is at all possible, and we don't think that that alternative has been fully explored in this particular case.

One thing that we did notice in our proposal, Mr. Chairman—I will be drawing to a conclusion—we pointed out to the regional office and to Mr. Ehrlich that there are three counties in southwestern Virginia—I think they are Carroll County, Grayson County and one other—they may appear on the map you have up there.

Mr. DANIELSON. Carroll and what others?

Mr. PETTY. Grayson, the city of Galax.

Mr. DANIELSON. I see.

Mr. PETTY. Those three jurisdictions were omitted from the original proposal of the VLAS. They have never had any legal services whatsoever and those remained omitted and are surrounded by, I think, three, if I am not mistaken, Legal Services Corporation funded programs which appear on your map up there, and in essence are isolated, and instead of putting those into an expansion program, they omitted those and kept in two areas—Lynchburg and Campbell County—which are already being served; and we just felt like that was not really in keeping with the philosophy of expanding these legal services.

This was pointed out to the Legal Services Corporation. We have had some criticism of our program because it is too small.

I just want to make one point on that map while I am there: Outside of the two major urban areas, the Richmond area and Tidewater, Va., which do have funding from the Legal Services Corporation, there are approximately five others in the central and western part of the State that are just about the same size—I think two of them are even smaller, one about the same size and maybe two a little bit larger in terms of poor population being served—that compare almost identically with the Lynchburg scope; that is, the one city and three counties, and when you look at those existing programs and compare the vast area that VLAS has submitted and Legal Services Corporation wishes to fund, it just looks like it is totally out of character of what has been going on in the State.

So we felt like we had a good proposal and we were very disappointed we did not prevail, and that really is the story that we have to tell as far as our local program is concerned.

Mr. DANIELSON. Mr. Rosenberger, did you have something you would like to add at this time before we ask questions?

Mr. ROSENBERGER. I just have two points, very brief points. One is that in the very first part of December, Mr. Walker Thompson wrote a letter to our office, stating that he had made recommendations on November 28, 1977, recommending that Lynchburg and Campbell County be funded along with 21 other jurisdictions in the parts of the central Virginia and southside Virginia under the VLAS proposal.

Now Mr. Woodward, who had come to Lynchburg on November 23 to inform us that this VLAS proposal was in existence, held a public meeting on November 30 in Lynchburg, in order to try to obtain community input concerning the proposal, but as you will note, that was 2 days after the regional director, Mr. Walker Thompson, had made his recommendation to fund the organization; so—you follow me?—the public hearing in Lynchburg was not even held until 2 days after the recommendation was made, and we were later told that the recommendation of the regional director was based on the consultant's report and the consultant couldn't have made his report before he had his meeting, which was 2 days after the initial recommendations was made.

Of course, all of that was halted when we were allowed an extension of time to file an application, until January 31, 1978.

The second point is that in the latter part of December—I am not really sure whether it was the week—the Thursday or Friday before Christmas or the following week, which would have been before New Year's, but whatever week it was—I received a call at the Legal Aid Society of Greater Lynchburg offices from a fellow who said he was associated with a legal aid society in Petersburg, Va. He began asking me several questions as to what the Legal Aid Society of Greater Lynchburg was doing as far as the Legal Services Corporation's proposal to cover Lynchburg and Campbell County was concerned, and I chatted with him a few minutes, and finally asked him what was the purpose of his call, and he said that the Petersburg Legal Aid Society, which was a locally funded and title XX funded program and, I think, had been in existence a year, or a year and a half, approximately, had just recently learned that the Legal Services Corporation was planning to expand an existing program, Federal program, in Richmond to take in Petersburg, and that his board was very concerned, very upset, and were not sure what they should do.

Of course, if they had just learned of that—I did not determine the exact date on which they learned of the decision of the Legal Services Corporation to take over their area—but if it were near the end of December when he placed the call to me, it was certainly approximately a month after we had first learned of the proposal.

We, for instance, checked the Federal Register on that and found out that a notice had been published in the Federal Register on December 7, under date of December 2, in the Federal Register, concerning Petersburg, which was also the time that the Virginia

Legal Aid Society's proposal to cover Lynchburg and Campbell County and the other 21 jurisdictions was published. So I just bring that to your attention because that is something that happened during this period of time.

Mr. DANIELSON. I am going to ask just a couple of questions in order to get this in context, in order to help me understand the other questions that may come up here.

As I understand it, your Lynchburg group—and you are going to have to forgive me; I can't remember all these acronyms—LASGL is your Lynchburg group?

Mr. PETTY. That is correct.

Mr. DANIELSON. Meaning Legal Aid Society of Greater Lynchburg. Prior to 1969 you had provided legal services to the indigent through the traditional method of simply getting some attorney to handle it for free, or having the judge phone you some morning and say, "I have a case for you to defend. Come on it." And you made it?

Mr. PETTY. That is correct.

Mr. DANIELSON. That is, that has been my lifetime experience.

Mr. PETTY. That is accurate as far as we are concerned too, Mr. Danielson.

Mr. DANIELSON. In 1969 you thought you might be able to work out a better service by setting up a nonprofit corporation, receiving some funding from the jurisdictions included within your area of responsibility, which happened to be the independent city of Lynchburg, plus Campbell County, and I believe you brought in Appomattox County?

Mr. PETTY. At that time, Mr. Danielson, we had to——

Mr. DANIELSON. Excuse me. You just had the two places?

Mr. PETTY. Yes, sir.

Mr. DANIELSON. I don't want to look at the leaves of the grass now; I just want to look at the lawn. Starting in 1969 or 1970 you commenced this locally funded operation? Correct so far?

Mr. PETTY. Yes, sir.

Mr. DANIELSON. With the passage of time, you did bring in Appomattox County or did you not?

Mr. PETTY. No.

Mr. DANIELSON. All right. Have you ever brought in Appomattox County?

Mr. PETTY. No, sir.

Mr. DANIELSON. And you never brought in Amherst County either?

Mr. PETTY. No, sir.

Mr. DANIELSON. I am going to go back. One reason you used local funding was the philosophical attitude of the people of your community; they preferred local funding apparently, to getting in under the OEO blanket or some similar Federal funding?

Mr. PETTY. That is generally correct, yes, sir.

Mr. DANIELSON. Anyway, you made the decision to do so?

Mr. PETTY. Yes, sir.

Mr. DANIELSON. Along in 1977 some time you began to explore the idea of expanding your area to include Appomattox and Amherst Counties. You met with the governing boards and they all at least seemed sympathetic to your proposal. Am I right or wrong?

Mr. PETTY. We met with them after we were aware that there was a VLAS proposal.

Mr. DANIELSON. Then you did that after November 23?

Mr. PETTY. Yes, sir; that is correct.

Mr. DANIELSON. On or about November 23, your office received a telephone call from a Mr. Woodward?

Mr. PETTY. Yes, sir.

Mr. DANIELSON. You didn't know who he was?

Mr. PETTY. I did not, no, sir.

Mr. DANIELSON. You said you didn't know who he was. You didn't know the purpose of his call, but there was a call. On or about that date, within a very short time, Mr. Woodward did come to the Lynchburg community and did have some kind of a brief meeting with you as to what you were doing with your organization. He probably informed you he was then with Virginia Legal Aid Society, which was presenting a proposal to have Federal funding from the Legal Services Corporation to cover the rather large area we have referred to, and that VLAS was to have its headquarters in Richmond. Am I right so far?

Mr. PETTY. Yes, sir; except, I think he was working directly for the Legal Services Corporation.

Mr. DANIELSON. He was not working for the Virginia Legal Aid Society?

Mr. PETTY. No, sir; I think he was doing field work for the Legal Services Corporation.

Mr. DANIELSON. November 23, approximately?

Mr. PETTY. Yes, sir.

Mr. DANIELSON. November 27 was the date that the regional office of legal services forwarded the Virginia Legal Aid Society proposal to Legal Services Corporation, or submitted it?

Mr. PETTY. Twenty-eighth, yes, sir.

Mr. DANIELSON. The 28th?

Mr. PETTY. Yes, sir.

Mr. DANIELSON. On November 30, Mr. Woodward came to Lynchburg and held a public meeting?

Mr. PETTY. Yes, sir.

Mr. DANIELSON. You were informed on either the 23rd or the 30th that it was too late for you to file a proposal because the time frame had commenced and it was now too late to submit a new proposal, but you thought of having a proposal to include Lynchburg, Campbell County, Appomattox County and Amherst County within the Legal Services Corporation funded operation, and through your own corporation?

Mr. PETTY. Yes, sir.

Mr. DANIELSON. I am going to interpolate something. I gather you do not read the Federal Register thoroughly every day?

Mr. PETTY. No, sir.

Mr. DANIELSON. Do you, Mr. Rosenberger?

Mr. ROSENBERGER. No, sir; I do not.

Mr. DANIELSON. Do you know whether anybody at the public library receives it in Lynchburg?

Mr. ROSENBERGER. Yes, somebody at the public library receives it.

Mr. DANIELSON. There is a copy that goes to the library. You did apply for, or obtain, an extension of time within which to submit a proposal which gave you up until January 31 to submit a proposal, 1978?

Mr. PETTY. That is correct.

Mr. DANIELSON. You did submit a proposal; it was turned down. The proposal of the Virginia Legal Aid Society was apparently approved?

Mr. PETTY. With some modification.

Mr. DANIELSON. With some modifications. Beyond that, your area—I am going to Lynchburg, Campbell County, Appomattox County and Amherst County, if they could be lumped together—would have about 19,000 poor persons to serve. The area originally included by Virginia Legal Aid Society would have close to 100,000?

Mr. PETTY. Over; about 107,000.

Mr. DANIELSON. 107,000 poor persons. In addition to the Lynchburg group and the Virginia Legal Aid Society group, there is—I am interpolating this; it is not in your testimony—a Legal Aid Society of New River Valley, Inc., which includes three counties—Giles, Pulaski, Montgomery—and the city of Radford, lying somewhat to the west of you?

Mr. PETTY. Yes, sir.

Mr. DANIELSON. A Legal Aid Society of Roanoke Valley—that is the one which had been in existence before you set up your corporation?

Mr. PETTY. That's right.

Mr. DANIELSON. And then also the Smyth-Bland Legal Aid Society somewhat farther west. Meanwhile, Grayson and Carroll Counties, plus the city of Galax had been omitted and may be still omitted so far as I know. That is all I need to get a picture.

I will now yield to the gentleman from Virginia, Mr. Butler, who I am sure knows more about this than most of us.

Mr. Butler?

Mr. BUTLER. Thank you, Mr. Chairman.

I appreciate the witnesses taking their time to share this with us.

Let me pursue, Mr. Chairman, right now the line of questioning you were giving with reference to these other geographical areas.

The New River area near Radford, the Smyth-Bland Society, as well as the other one mentioned on this map, the Charlottesville-Albemarle Legal Aid Society and then the Fredricksburg area Legal Aid Society—these four are approximately of the same size or smaller than the population you would serve by your proposal of Lynchburg-Appomattox-Campbell and Amherst; is that correct?

Mr. PETTY. That is correct.

Mr. BUTLER. The poor population is the same or less than what you have in Lynchburg?

Mr. PETTY. Yes, sir.

Mr. ROSENBERGER. The Roanoke Legal Aid Society has expanded into two or maybe three areas within the last year, at the same time that our proposal has been before the Legal Services Corporation, but basically it has been within the area.

Mr. BUTLER. I didn't include Roanoke in the list of those four. The Roanoke plan, of course, began only with the city of Roanoke

Valley and now has gradually expanded into these other areas; is that not correct?

Mr. PETTY. That is correct.

Mr. BUTLER. Mr. Chairman, would it be appropriate to file with the record this map that we have been discussing?

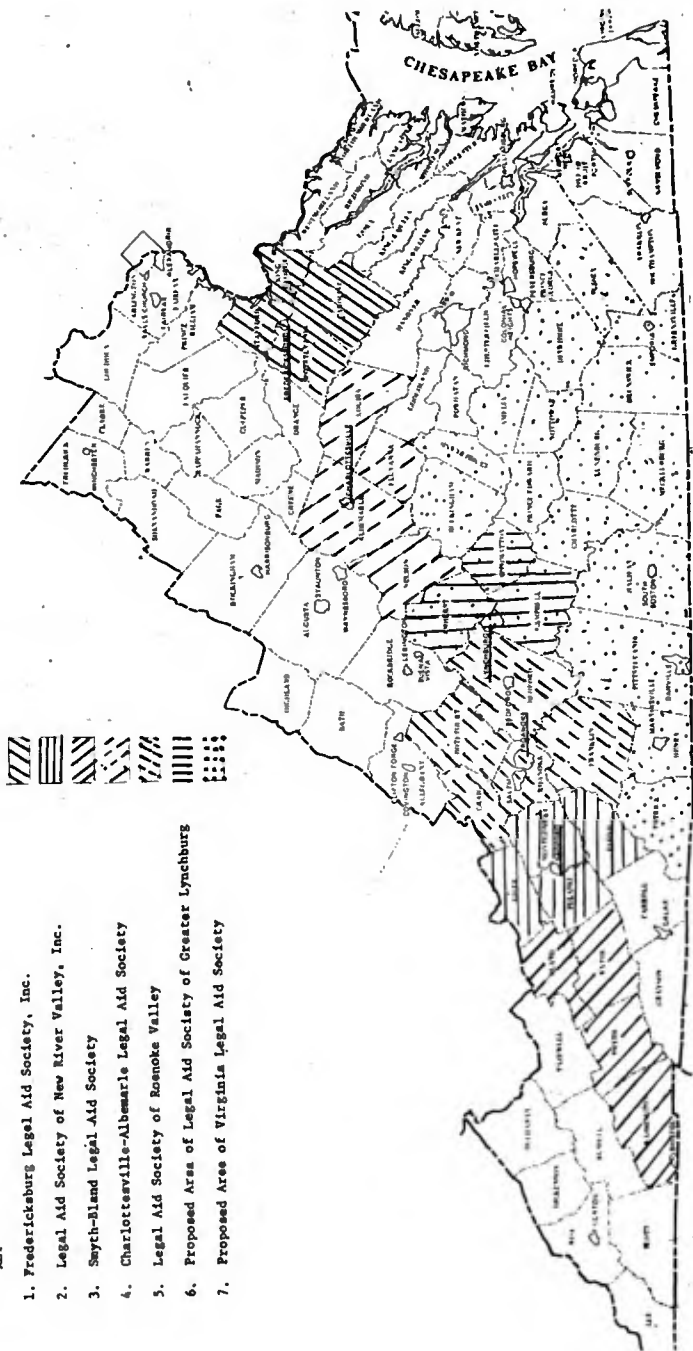
Mr. DANIELSON. It not only would be appropriate but I think it essential, and if there is no objection, it will be received.

[The information follows:]

Map presented by LASGL on May 22, 1978

KEY

1. Fredericksburg Legal Aid Society, Inc.
2. Legal Aid Society of New River Valley, Inc.
3. Smyth-Blind Legal Aid Society
4. Charlottesville-Albemarle Legal Aid Society
5. Legal Aid Society of Roanoke Valley
6. Proposed Area of Legal Aid Society of Greater Lynchburg
7. Proposed Area of Virginia Legal Aid Society



Mr. DANIELSON. Mr. Butler, I might point out there are five or six copies of this map floating about and some of them are more artistic than others. I would like to suggest we put in the one that is most easily understood.

Mr. BUTLER. Can we delegate that discretion to Mrs. Fogarty?

Mr. DANIELSON. Mrs. Fogarty.

Mr. PETTY. We apologize for the art work.

Mr. BUTLER. Thank you. They teach law and teach public relations but they haven't gotten around to art work yet.

Just a few more questions along the line, to make clear in my mind—

You do have a board now of the Legal Aid Society?

Mr. PETTY. Oh, yes, sir.

Mr. BUTLER. And how is that selected?

Mr. PETTY. We have a board of 15-17. We have nine of those, a majority, who are members of the Bar Association of Lynchburg and Campbell County and they are nominated by the president of our bar association, and they, in turn, I believe, select the lay members, eight lay members of the board, so we have nine and eight.

Mr. BUTLER. It is a self-perpetuating board with a broad community base and substantial representation of the bar?

Mr. PETTY. I think that is accurate, yes, sir.

Mr. BUTLER. What kind of reputation do you believe that program has in the community now?

Mr. PETTY. I think the reputation has grown every year, as one that has been accepted very well by the bench, and the bar, and the public. It is being utilized by the black and the white communities and I think it is being accepted. Our caseload is going up every year. We really know of no real public criticism of our program. I think it has been very well accepted.

Mr. BUTLER. Do you have a substantial dissenting group within your board who have objected to the progress you have made, or haven't made, or things of this nature?

Mr. PETTY. No; our board has not been—I would say no, we have not had that experience.

Mr. BUTLER. You don't recall any board members being really critical of the policies of the board, the way you have handled this in the past?

Mr. PETTY. Yes, sir; I have been with them ever since they began in 1969. I was on the committee that formed it and I have been either a board member or an officer or president of the bar or in some fashion connected with it since its inception.

I think I could say that with some accuracy.

Mr. BUTLER. In March 1977, the regional office began consideration, I judge, of the idea of expanding legal aid in this part of Virginia. I judge from your testimony you really first became aware of this sometime in November 1977?

Mr. PETTY. That is correct.

Mr. BUTLER. So just for the record now, did the regional office solicit your assistance in any way whatsoever in anticipation or consideration of this proposal or preparation of the proposal?

Mr. PETTY. Are you speaking now of the VLAS proposal?

Mr. BUTLER. Yes.

Mr. PETTY. That would include Lynchburg and Campbell Counties?

Mr. BUTLER. Yes.

Mr. PETTY. No, sir.

Mr. BUTLER. Did you have any input whatsoever in drafting the Virginia Legal Aid Society proposal?

Mr. PETTY. No, sir.

Mr. BUTLER. As far as you know, nobody in the staff of your organization had?

Mr. PETTY. No, sir. I must say, we had one member of our board, the Legal Aid Society of Greater Lynchburg, who is now on the board of VLAS.

Mr. BUTLER. That is Mr. Mangum?

Mr. PETTY. Mr. Mangum, yes, sir. That is the only common liaison that we know of between the two groups.

Mr. BUTLER. Do you have any idea why the Northern Virginia Regional Office chose not to work with your program or the local bar, in preparation of this proposal?

Mr. PETTY. Well, not really, Congressman Butler. The only thing I can surmise is that the light treatment—I just have to say—of the description of our program in the VLAS proposal, as being “token and one-man” and creating the implication that we in essence had no legal services available in that area, was accepted as a verity, as I see it, by the regional office, and so they felt like there was no need to make any proposals to us, I assume; but I really can’t answer that.

I wish we did know why they didn’t come to us.

Mr. BUTLER. You were talking a moment ago about your caseload having grown. Generally, what kind of cases—I ask both of you to answer this—what kind of cases does your office now handle?

Mr. PETTY. I am going to refer that to Mr. Rosenberger, if you don’t mind.

Mr. ROSENBERGER. Congressman, we have, basically, civil, nonfee-generating cases, which means we handle no criminal cases; we handle no fee-generating cases, and in addition we do not handle class action suits, but besides that, the amount of cases and the type of cases that we handle after that depend on the time that it takes to perform a particular case, the work required in a particular case, and it is just handled on a case-by-case basis. Very generally, we handle family law matters which include divorce, custody, separation, adoption and anything that would basically be related to a family relationship.

We handle contract cases, landlord-tenant cases, wage cases, just basically any other type of case that would come up.

Mr. BUTLER. And you are pretty busy?

Mr. ROSENBERGER. We stay extremely busy. We work on weekends and nights, and we have had, contrary to the VLAS proposal, we have had three attorneys during the last 2 years. One of our attorneys who was a full-time volunteer member of the staff, an attorney, has left us during the last few months, for several reasons, this being one of the reasons, but—

Mr. BUTLER. This kind of controversy or this problem?

Mr. ROSENBERGER. Yes; as I say, there were other reasons involved too. But we have stayed extremely busy. We have been very

fortunate in having volunteers from people in the community, from people at the colleges; and I think we just had a really good operation for the amount of money and the staff that we have had.

Mr. ERTEL. Will the gentleman yield?

Mr. BUTLER. Certainly.

Mr. ERTEL. Can you tell us the approximate number of cases you have handled per year? You may have already testified to that prior to the time I came in.

Mr. BUTLER. No; we want to get that.

Mr. PETTY. We will have that information, if you just give us a moment.

Mr. ERTEL. And also a breakdown of what categories they fall in, by number, if you have that.

Mr. ROSENBERGER. Congressman, the last full, 12-month statistics that I have are from July 1975, through July 1976, and in that time period there were 851 cases which we handled, 851 clients who had cases during that 12-month period.

Mr. ERTEL. If you will yield further—

Mr. BUTLER. I yield.

Mr. ERTEL. When you refer to a case, does that mean it winds up in some sort of litigation process or some sort of legal filing, or is that a contact, a client interview, with some sort of legal advice given? How do you term a case?

Mr. ROSENBERGER. Let me explain it this way: During that time period from July 1975, to July 1976, we had approximately 1,300 people come into our office and make out an application for services. Of that 1,300, 851 people qualified for our services and actually had a problem of some nature that we assisted them with.

Mr. ERTEL. What did you do with the others? Did you refer those to other attorneys?

Mr. ROSENBERGER. Some of the people were referred to other attorneys. Some—I don't know if the Virginia Lawyer Referral Service was in existence at that time, but we use that now, which is a phone number that a person can call. We have also a referral system among the bar association in Lynchburg and Campbell County that was used prior to that time and is still alternately used.

Mr. ERTEL. Do they get a reduced fee based upon their economic situation?

Mr. ROSENBERGER. Yes. The bar association agreed to consult with anyone referred by the Legal Aid Society for a fee of no more than \$10 for approximately one-half hour, and under the Virginia Law Referral System it is no more than \$15 for one-half hour of consultation.

Mr. ERTEL. 851 matters you did handle. Do you have a breakdown of how they broke down as far as type?

Mr. ROSENBERGER. Of that number, there were—to answer the other question—of the 851 eligible cases that we handled, 253 of that 851 resulted in court cases or hearings or administrative proceedings, some form of contact with the court or an administrative agency. The others were handled in the office. As far as the actual breakdown, I could list it to you. We have it divided into approximately 15 to 20 categories of breakdown of the figure of 1,372.

Mr. ERTEL. I am just curious how many of those would be landlord-tenant cases?

Mr. ROSENBERGER. Forty-nine.

Mr. ERTEL. Thank you.

Mr. PETTY. May I just elaborate just a little on that?

Some of the applicants that have come in are obviously not eligible. Their income limitation is too high. Others may come from other jurisdictions other than Lynchburg or Campbell County, which we were not able to serve. So, of necessity, many applications are taken that are never processed for those basic reasons there. Others are also referred to local attorneys if it is a fee-generating case.

Mr. ROSENBERGER. Just to expand on that, in criminal cases a lot of people could come into the office with criminal matters and also a lot of people who knew they did not qualify for legal aid came in because they said they did not know how to get in touch with an attorney; so they came in there. It was their first contact with the legal system.

Mr. BUTLER. Do you have any policy with reference to controversial cases?

Mr. PETTY. Do we have a policy?

Mr. BUTLER. Yes, against accepting controversial cases?

Mr. PETTY. No. You get involved in a controversial case whether you want to or not. We don't have any policies against that, Congressman, no, sir. I think we have one case pending right now against the Welfare Department in Lynchburg that Mr. Rosenberger is involved in, but we have no formal or written policy or practical policy against controversial cases that I am aware of.

Mr. BUTLER. Mr. Rosenberger, do you want to add to that?

Mr. ROSENBERGER. I think Mr. Petty has covered that. There is no policy that I know of against controversial cases and I think certainly a lot of cases we have handled have been controversial in one sense or the other. I don't know if all of them have been in the headlines of the newspaper, but certainly controversial.

Mr. BUTLER. I thank you, Mr. Chairman. I yield back.

Mr. DANIELSON. Thank you, Mr. Butler.

Mr. Ertel, you still have questions?

Mr. ERTEL. Yes, Mr. Chairman.

I am curious. You had how many attorneys?

Mr. ROSENBERGER. Three attorneys, two attorneys on the staff and the third attorney was a full-time volunteer attorney.

Mr. ERTEL. How do you select your attorneys in your program?

Mr. ROSENBERGER. When I came there—I have not selected any attorneys in our program—the woman attorney who is in our office was already there and approximately at the same time I came to work there, Mr. Robert Morrison, who was the full-time volunteer attorney, came in, approximately the same time, and I had nothing to do with his volunteering, although I was very grateful for his services.

Mr. PETTY. I have been involved in a hiring process. As a matter of fact, we hired Mr. Rosenberger and that has been done traditionally by, I would say, a two- or three-man committee. If we have someone who has indicated he is not going to be with us the next year, then we will make some inquiries of local law schools, pub-

lishing it in the bar news, and make it known that we are looking for someone to staff our office.

Mrs. Baker is the wife of an attorney in Lynchburg; she is the female attorney in our office. She was working as a secretary. I think she had some interest in delivery of legal services to the indigent. She completed her law school courses and took the bar exam and passed the bar—at what age?

Mr. ROSENBERGER. She qualified to practice, I think, in the first part of 1976.

Mr. PETTY. She is in her fifties, I would say that. Mr. Morrison has come with us on a volunteer basis, so we have had the good fortune of having those two people in our office.

Mr. ERTEL. May I ask, Mr. Rosenberger, have you ever had any person from the bar interfere with your handling of any case or suggest to you that you were handling a case in an improper manner and you shouldn't be handling it in that way?

Mr. ROSENBERGER. No, I have not.

Mr. ERTEL. Have you had any pressure not to take landlord-tenant cases?

Mr. ROSENBERGER. Not at all.

Mr. ERTEL. I missed part of your testimony, Mr. Petty, but what is your main objection to going in with the Virginia Legal Aid Society which is coming into the area; just merging your program or turning over your attorneys, if that is possible, to them, and letting them handle the show?

Mr. PETTY. We have several objections to it, Congressman. One of the fatal flaws that we saw was that it had left out Amherst County, which is indigenous to our area.

Mr. ERTEL. But are you covering Amherst County now?

Mr. PETTY. No, we are not, but we had a proposal that could do so.

Mr. ERTEL. So in any event, at the present time there would be no change as far as Amherst County is concerned?

Mr. PETTY. That is correct, but we had on our proposal that we would be funded and provide services to Amherst County.

One of the other main feelings we have is that we are talking about what we view almost as an experimental thing as far as geographic size that the VLAS is going to be trying to fund and operate. The Lynchburg area is what we call the central Virginia area and is not really identified with southside Virginia where most of the other counties in the big proposal are located; and in order to get client input and representation from the bar as the Legal Services Corporation guidelines require, from the board of directors' standpoint, we don't see how you can adequately reflect the community needs by having such a widespread area with very, very little board representation from the areas involved.

Mr. ERTEL. How many attorneys does the Virginia Legal Aid Society intend to have?

Mr. PETTY. Seventeen.

Mr. RAILSBACK. How many for your area, do you know?

Mr. PETTY. For our area?

Mr. RAILSBACK. Yes.

Is that what you were trying to get at?

Mr. ERTEL. I was going to come down to that.

Mr. PETTY. I think it is three. I think it is the same as we have right now, and what we propose in our proposal.

Mr. ERTEL. How do you justify the selection of your board of directors when you have nine selected by the president of the bar association and then have those nine select the other eight? Isn't that sort of a captive board?

Mr. PETTY. That may or may not be, but we are not guided by that with the Legal Service Corporation proposal that we have filed. We are not intending at all to continue in the same manner as we have continued before. We are really turning our situation from the State bar guidelines and the State bar or the statutory scheme in Virginia to go to the guidelines of the Legal Services and select our board accordingly.

On our board selection, for example, we would have attorney and client representation from all four jurisdictions, at least two from each one, and I believe under the Legal Services Corporation guidelines, one-third of your board has to be clients or eligible clients. If you had a 15-man board, you have 6 people who would be clients, or eligible clients, and we feel like we could get those from the area to be served and could really identify on a more practical basis the needs to be fulfilled by the proposal, so that board composition would be changed completely.

Mr. ERTEL. I am trying to find out the distinction between what you are proposing and what the other people are proposing. The only distinction I can see at the present time is the size of the administrative unit; is that true?

Mr. ROSENBERGER. It is the size of the administrative unit, the area to be covered.

Mr. ERTEL. That is all the same, but you still have the same number of attorneys representing the same area that you are anticipating under yours; so all you are saying is, we are not in, and the other people are, and that is why we are complaining?

Mr. ROSENBERGER. Plus, if the proposal of the Legal Aid Society of Greater Lynchburg had been granted, the Virginia Legal Aid Society proposal could also have been granted, and if the Legal Aid Society of Greater Lynchburg proposal had been granted, there was already an existing vehicle to fund, which was in operation, which was established in the city of Lynchburg and Campbell County, and I think for that reason the county board of supervisors in both Appomattox County and the bar associations in those areas supported our proposal when it was submitted to the Legal Services Corporation.

We obtained a great deal of support. We made a great deal of contact, both for the proposal and also organizations in all of the jurisdictions after representatives of those organizations concerning the selection of members to the board of directors, both client members and attorneys, if our proposal were approved by the Legal Services Corporation, over 25 to 30 organizations which are listed in the statement, which, I understand, will be passed out.

Mr. ERTEL. Well, what you said I appreciate, but the Virginia Legal Aid Society hasn't suggested that you merge your unit into them?

Mr. PETTY. No; they have suggested we merge into them; they have made that suggestion.

Mr. ERTEL. So what is wrong with that—and doesn't it come out to be the same thing, except maybe you lose the bar association in your local county control of the situation?

Mr. PETTY. I think the main thing that we are trying to say here, Congressman, is that we have a widespread community support for the LASGL proposal to be funded by Legal Services Corporation, which was not solicited by VLAS, and there is not the same support for the VLAS, the larger proposal. I think there is some resentment in the community, really, because of the way it was handled and the way it came in, and we are trying to counteract some of that by bringing our community into supporting a federally funded grant proposal serving Lynchburg and the three counties which otherwise was lacking.

I think that is the very important thing, as we view it, that we do have some community support for the federally funded program in the smaller area to be served, with better representation from the localities involved.

Mr. ERTEL. Thank you very much for your comments and your testimony.

Mr. DANIELSON. Mr. Railsback of Illinois.

Mr. RAILSBACK. Thank you, Mr. Chairman.

You say in that year that you reported 800-and-some cases that you handled. Approximately how many cases did you turn down? And I wonder if you have a record of that? In other words, cases which you were not able to help or elected not to provide assistance?

Mr. ROSENBERGER. Sir, there were approximately 1,300 persons who came in to apply for services. How many people we turned down because, say, it was a criminal case; how many people we turned down because it was a fee-generating case, how many people we turned down because they did not qualify financially—I don't really know. We also had people who came in from Appomattox and Amherst Counties which are jurisdictions not served by our organization but who also made out applications; so I don't have the breakdown as to why those who were turned down were turned down.

Mr. RAILSBACK. There were a total of about 1,300 contacts then and 800—

Mr. ROSENBERGER. 851.

Mr. RAILSBACK. 851 cases that were handled?

Mr. PETTY. I think on that question, if they were eligible, I believe we attempted to service them. I don't think we turned down people that were eligible that we should have otherwise handled and didn't do so.

Mr. RAILSBACK. I want to say that I think, in looking at the history of your legal aid agency that I personally feel that it was farsighted and admirable that your particular area saw fit on its own initiative and with its own funding to create a legal aid organization.

As I understand the issue before us now, however, there has been increased funding for the Legal Aid Corporation and they have a policy that actually has, I think, a formula to try to expand legal aid to provide minimum access to every American that may need help, and so I gather that part of that expansion is to try to do what has been done in respect to many educational school districts,

and that is, to try to encompass larger and larger areas, providing more uniform type of service.

So then the issue becomes, what is the role of a smaller kind of an independently constituted legal aid society? How does that fit into the overall legal aid program, the Government program? And I am going to ask a question, but first I want to say that I certainly think in reviewing the history, at least after hearing your side of it, that they did not do a very good job in communicating or letting the citizens of Lynchburg have any kind of meaningful input, and that bothers me a great deal. That is without considering the merits of the thing.

Let me ask you this: You have a minority population and in conferring with Congressman Butler, I am led to believe that you may have as many as 20 or 25 percent minority within your constituency; is that correct?

Mr. PETTY. We have that statistic. I think it is somewhere in that neighborhood. You go ahead. I think that statistic is generally correct. We will confirm it for you.

Mr. RAILSBACK. I am kind of curious as to how many minority people are using your service. You may or may not have any figures on that.

Mr. ROSENBERGER. Congressman, the total population for the four jurisdictions that were proposed to be included in our proposal to the Legal Services Corporation, the total population is 146,700. That is an estimate by the District Planning Commission as of July 1, 1976—146,700—and the nonwhite population for those same areas is 27,505, from the same source.

Mr. PETTY. That is 20 percent.

Mr. RAILSBACK. Why would they be primarily black or would they be almost entirely black?

Mr. PETTY. I would think so, yes, sir.

Mr. ROSENBERGER. There are, I think, 200 to 300 native Americans in Amherst County, which, I understand, is a substantial number for one particular area.

Mr. RAILSBACK. That, I would say, would be true in my area. I am not singling out your area at all because I happen to have a relatively small black population. I also feel that as far as the use of my congressional office, many blacks are not making use of my congressional office in my district because I am not sure they feel very comfortable doing so; but I am wondering if you feel that you are providing service to the blacks and do you get a large number of blacks coming in to use your services?

Mr. PETTY. I was going to say about half, Congressman Railsback. Mr. Rosenberger tells me that about 42 percent of the total services rendered are rendered to the black community and about 58 percent to the white community. It is a larger ratio of usage by blacks than the black population is to the white population.

Mr. RAILSBACK. I think that follows probably because of economic circumstances and so forth.

Under the VLAS proposal it is your belief that they would provide your area about the same number of lawyers that you are now providing it, which is three?

Mr. PETTY. That is my understanding.

Mr. RAILSBACK. And I take it we will have a chance, Mr. Chairman, to inquire later about that.

What has been the reaction of the local bar to the VLAS proposal? In other words, what has been the reaction of the Lynchburg bar in that area to the new regional proposal? Did they testify or appear at that hearing that was held?

Mr. PETTY. Well, the reaction of the bar has been quite negative to the VLAS proposal. Before we filed our own proposal, we went to the bar as a whole and explained the situation, and I asked for their authority to proceed with our own proposal, because we were changing completely our philosophy from a locally funded, locally operated, bar association-sponsored legal services program, to one that had Federal funds, which was a 180° turn, and we had a large turnout and I believe it was a unanimous vote to proceed in the manner that we did.

So I would just have to say that our bar has—in all four jurisdictions—Amherst, Appomattox, Campbell and Lynchburg—have by resolution adopted by those associations supported the LASGL proposal.

Mr. RAILSBACK. In respect to the other, the legal aid societies in the surrounding areas that have been separately constituted, has their reaction been similar to the Lynchburg bar as far as the VLAS proposal?

Mr. PETTY. Well, if I understand your question, the only—

Mr. RAILSBACK. Well, like Fredricksburg, like the Smyth-Bland Legal Aid Society, like the Charlottesville, and so forth?

Mr. PETTY. I am not aware of any input we have had from them concerning this particular proposal.

Mr. RAILSBACK. I wonder if they are objecting? I don't know how they are constituted, but I take it some of them are going to be incorporated into the new regional office, aren't they? They are not?

Mr. PETTY. No, sir. They are already existing Legal Services Corporation—funded programs, and I assume they are going to stay that way.

Mr. RAILSBACK. They are publicly financed?

Mr. PETTY. The one we did get a reaction from was Petersburg, which was locally funded and had some title XX social security funds and was in contact with the Legal Services Corporation of Virginia at Richmond, and their director called us and wanted to know what was going on. They had just gotten notice they were included in the expansion of the program they had not been aware of to that point. That is the only one we are aware of and they have had a similar experience to what we have had.

Mr. RAILSBACK. One other thing: I think it would be helpful to us if you do have a breakdown as to the types of cases that you handled, and perhaps any complaints that you have had. I take it you have not had any complaints from any of the minorities, that you have not been handling their complaints or their cases?

Mr. PETTY. I am just not personally aware of any, Congressman. Mr. Rosenberger may want to respond to that.

Mr. RAILSBACK. Did any of this come out at all at any of the public meetings? There was a public meeting, I see, and Mr. Rosen-

berger, I think, was there. Was there discussion that there were certain people that were not being served?

Mr. ROSENBERGER. From what I recall of the meeting—it was back, I believe, on November 30—there was some discussion or mention of the fact that the Legal Aid Society of Greater Lynchburg, as it is constituted now, does not handle class action suits. At that time it was indicated, and I think it was the consensus, it was my feeling that those people who were there at the time of the meeting—I had nothing to do with calling the meeting; this meeting was called by a small notice in the newspaper which had been placed there on behalf of Mr. Woodward who was a consultant for the Legal Services Corporation, was placed in there on Tuesday morning and the meeting was Wednesday. And I went. Mr. Woodward knew I was coming. I had no people there on our behalf except for myself, so the people who came as far as I know were informed of the meeting by the newspaper article. There was a brief discussion by Mr. Woodward of what the Virginia Legal Aid Society proposal was and what it proposed to do.

At the conclusion of his presentation—and I did not get into the discussion at that point—there was a reaction from, I would say, most everyone there, that they were surprised at not themselves not knowing about it; I think the people there were interested in one way or another with what was happening with legal aid.

Mr. RAILSBACK. What has been the reason given for phasing your nongovernmental program into the new proposal? Why did they tell you they wanted to include Lynchburg and your area?

Mr. ROSENBERGER. Sir, I would have to gather that here and there, but what I come to, and this is after discussion with other people, is this: That on November 28, 1977, the regional director of the Legal Services Corporation recommended that certain—11 jurisdictions be excluded from the proposed area to be served by the Virginia Legal Aid Society, that three of those areas were Galax, Carroll and Grayson, which are now isolated and surrounded by three Federal legal aid societies and no legal aid service. North Carolina is on the other side. That recommendation was made on November 28 and Lynchburg and Campbell County were to be included under that proposal. The public hearings, the investigation of what legal services were available in Lynchburg had not been really undertaken until November 30 at the public hearing.

Henry Woodward did come into Lynchburg on November 23 for the purpose of saying, "There is a proposal in existence and you are included in that," but the public meeting, again, was not until November 30, and no report could have been filed by Mr. Woodward on that meeting until sometime after November 30; but the decision of the Legal Services Corporation to include Lynchburg and Campbell had been made two days prior to that, with no study that we know of of the need or the availability of existing services in Lynchburg, and once we got into the proposal, they then said—well, I don't know what they said—but they then decided that they would look into the past operations of the Legal Aid Society of Greater Lynchburg as it now exists, which you know we felt that the two proposals, the one we submitted and the one they submitted, should be weighed on the merits, but they went on to say that the big organization was better because you have a better chance

for career advancement, specialization, just better resources, administratively could be handled better and, second, that because what I am taking as a conclusion, because of the past operations of the Legal Aid Society of Greater Lynchburg, that it would not be a program worthy of funding by Legal Services Corporation.

Mr. RAILSBACK. Where does your \$38,000 come from, the local funding?

Mr. PETTY. It comes from the city of Lynchburg—city council—and the board of supervisors of the county of Campbell—adjacent Campbell County.

Mr. RAILSBACK. Thank you very much.

Mr. DANIELSON. Gentlemen, could we have a copy of the proposal which you sent to the Legal Services Corporation?

Mr. PETTY. Yes, sir.

Mr. DANIELSON. If you do not have it available with you, it would be satisfactory if you submit it later. Do you have one with you?

Mr. PETTY. We have one we can spare, yes, sir.

Mr. DANIELSON. If you have, how long is it?

Mr. ROSENBERGER. I would be willing, if I could check through to make sure it is complete, to give you a copy of this book which has the VLAS proposal, all the documents that were filed.

Mr. DANIELSON. We are not going to print that book. Do you have a copy of that proposal that we could have?

Mr. PETTY. Yes, sir.

Mr. DANIELSON. Without objection, it will be received. It will be lodged in our file. I want to look at it before we print it. It may be too big.

[Proposals submitted by LASGL and VLAS are retained in Subcommittee files.]

Mr. DANIELSON. Do you have a copy of the proposal from the Virginia Legal Aid Society?

Mr. PETTY. Yes, sir.

Mr. DANIELSON. How thick is it, approximately? Then, without objection, we will lodge that with the committee.

Mr. DANIELSON. You do not handle criminal cases. What do you do with them?

Mr. PETTY. In a criminal case, under Virginia law, if a person is indigent, then the court makes a determination and the person is given court-appointed counsel paid with public funds.

Mr. DANIELSON. You do not handle fee-generating civil cases. What do you do with them?

Mr. PETTY. With a lawyer referral system, we refer those on a rotating basis to practicing attorneys.

Mr. DANIELSON. That would include such cases as—the common one would be the personal injury cases?

Mr. PETTY. Right.

Mr. DANIELSON. You do not handle class actions. One, have you ever been requested to handle a class action?

Mr. ROSENBERGER. I have not.

Mr. PETTY. I don't believe we have, Mr. Chairman.

Mr. DANIELSON. You have no present recollection of ever being requested to start a class action suit?

Mr. ERTEL. Will the gentleman yield on that point?

Mr. DANIELSON. Just a moment, not until I get the answer. Have you ever been requested?

Mr. PETTY. I am not aware of any request.

Mr. DANIELSON. How about you?

Mr. ROSENBERGER. I have not.

Mr. DANIELSON. I yield.

Mr. ERTEL. In taking a class action, many a lawyer in looking at the case will suggest that the action is appropriate for class action. Have you ever made that suggestion or have you ever seen a case that might be appropriate for class action?

Mr. PETTY. The only case I think that comes anywhere close is—we had a Randolph-Macon Woman's College student in Lynchburg who had some difficulty with the Registrar of Voters and came to us and said that she wanted some representation in her voting registration and she may have had some other girls at the college in the same predicament, and she made an argument that we should assist her because she was a student and did not have any income and therefore was indigent; and we felt that that was not an appropriate test of indigency of a girl who comes from Randolph-Macon Woman's College and we decided not to take the case. It wasn't a decision on the merits; it was a decision on eligibility.

Mr. ERTEL. How did you get in that decisionmaking process? Did the employer refer that to the board?

Mr. PETTY. Through the executive committee of the board; the executive director took that up with the executive committee of the board.

Mr. ERTEL. Then Mr. Rosenberger took it up?

Mr. PETTY. That was prior to his being with us.

Mr. ERTEL. Mr. Rosenberger, have you seen any class actions which were justified or any case that would have justified class action status such as complaints against a manufacturer of a product, actions by municipal government, actions by any type of individual or group?

Mr. ROSENBERGER. We had one case concerning a vacuum cleaner, I think it is, one of these pyramid-type sales of selling vacuum cleaners for exorbitant prices, \$800, \$900, where you pay so much a month; and we had a woman come in concerning that type of case, and when we were checking into her particular case, not in terms of class action but the particular type of case, it was found that the attorney general of Virginia's office had brought an action against this company, and so we just submitted the information that we had to him, and I believe that our particular client did collect money as a result of that.

Mr. ERTEL. Have you ever analyzed any cases where you thought class action might be appropriate?

Mr. ROSENBERGER. No.

Mr. ERTEL. How long have you been executive director?

Mr. ROSENBERGER. For 2, 2½ years.

Mr. ERTEL. You have never had someone anywhere bring in a case which you thought was appropriate for class action?

Mr. ROSENBERGER. I have not been looking for class-action suits because it was a policy not to handle class-action suits. We stay extremely busy and we have handled each case that we have handled on an individual basis.

Mr. ERTEL. Thank you. I yield back.

Mr. DANIELSON. Do you have any formally adopted policy that you will not handle class-action cases?

Mr. PETTY. We do have, yes, sir. When we first formed our organization at the very inception we adopted that policy of not taking on class actions. We felt individual indigents needed service and we felt it was not appropriate.

Mr. DANIELSON. That remains in effect?

Mr. PETTY. That remains in effect.

Mr. DANIELSON. In your proposal which was submitted to the Legal Services Corporation, did you state a position as to whether you would or would not handle class actions?

Mr. PETTY. We stated our position, that we would handle whatever was appropriate under the Legal Services Corporation guidelines. If that means that we are to handle class actions, then we will have to handle class actions, yes, sir.

Mr. DANIELSON. On funding, you have been receiving funding from the independent city of Lynchburg and Campbell County. Now that there is imminent or at least potential Legal Services Corporation funded representation for the poor in your area, have either of these jurisdictions let you know or implied that they may discontinue their funding?

Mr. PETTY. Yes, sir. The mayor of Lynchburg, Mr. Freeman, is here this morning and he can address that; but they have deleted our request from a line item in their budget for the coming year.

Mr. DANIELSON. That is pretty strong implication. How about Campbell County?

Mr. PETTY. I believe they have taken the same position.

Mr. DANIELSON. Do you know when the Virginia Legal Aid Society was incorporated?

Mr. PETTY. Probably in the late spring or early summer of 1977, just prior to filing their proposal.

Mr. DANIELSON. Do you know when they filed their proposal?

Mr. PETTY. I think it was June 1977. The cutoff point, I think, was June 30 of this fiscal year, involved—

Mr. DANIELSON. What happened to the Roanoke Valley Legal Aid Society, are they still in existence?

Mr. PETTY. Yes, sir.

Mr. DANIELSON. Are they to be funded through Legal Services Corporation?

Mr. PETTY. I don't know.

Mr. BUTLER. Yes. I can answer that.

Mr. DANIELSON. Thank you.

My last comment is, without objection, I would like to include within the record an opening statement which Mr. Kastenmeier would have made, and I should have made, except that I hadn't read it, and I never put anything in that I don't read.

Is there objection?

Hearing none, it will be received in the record.

[The information follows:]

STATEMENT OF HON. ROBERT W. KASTENMEIER

This morning the Subcommittee on Courts, Civil Liberties, and the Administration of Justice will conduct an oversight hearing on the expansion policies of the

Legal Services Corporation. The Members of this subcommittee have worked during the past few years on this issue and on the legislative proposal—now Public Law 95-222—which amended the Legal Services Corporation Act of 1974. We have been impressed with the commitment of the Corporation in seeking to deliver justice to the nation's poor in civil matters. We have been equally impressed with the dedication of the several hundred local programs which are funded by the Corporation, and which work daily with the poor to assure them not only adequate but high quality legal assistance. This subcommittee is in agreement with the Corporation's short term goal of minimum access for all the nation's poor. To accomplish this modest goal of two attorneys per 10,000 poor (i.e., \$7 per poor person) by the end of fiscal year 1979 would require an appropriation of \$304 million which is the budget which the Corporation has requested for 1979.

As the Corporation expands it inevitably encounters other legal services programs which are not funded by the Corporation and its predecessor organizations—Community Services Administration and OEO. Some of the local programs do not have any federal funds and may be financed by local public funds and or by money or services provided by the local bar. We are concerned that such programs not be displaced by the federal program, but that they work either in concert or, where feasible and appropriate, with Legal Services Corporation expansion funds. In fiscal year 1978, over \$18 million was allocated by the Corporation for expansion funds. New grantees were urged to limit their geographical area so that they could provide services in those areas at the per capita level of \$4.90. Existing Legal Services Corporation grantees were asked to limit their geographical areas so that they will provide services in those areas at the per capita level of \$7.

The Corporation has set out other guidelines for expansion:

1. Priority was to be given areas within states where the largest number of poor persons reside without access to legal services programs.

2. Within each state, priority is given to funding through administrative units that will provide services to the largest number of eligible clients (including those in rural areas) in the most efficient manner.

3. Where the provision of service in new areas can be accomplished by expanding geographic coverage of existing Legal Services Corporation programs of proven effectiveness, these existing programs will be given priority.

Today, at the request of Hon. M. Caldwell Butler, a member of this subcommittee, I have scheduled this hearing. Its main purpose is to review the Corporation's expansion policies and practices as it relates to the funding of a Federal program in the Lynchburg, Va. area—Mr. Butler's congressional district. It is not the intent of the subcommittee to interfere in the Corporation's decision to fund the Virginia Legal Aid Society's proposal rather than that of the local program, Legal Aid Society of Greater Lynchburg. The Legal Services Corporation program must be insured against political interference. However, it is the intent of the subcommittee to review the Corporation's procedures by which it reached this decision.

We welcome a number of witnesses from the Lynchburg area, as well as Mr. Walker Thompson—the regional director of the Legal Services Corporation's Northern Virginia Regional Office.

On the outset I would like to mention that I regret to say that two witnesses who were scheduled to testify are unable to attend the hearings this morning because of the change in the location of the hearing. Originally this hearing was to be held in Lynchburg. Two scheduled witnesses from Lynchburg, Mr. Wallace Clair, Executive Director of the Agency on Aging and Mr. Junius Haskins, Jr., Director, Manpower Services, Community Action Program had family and professional responsibilities in the Lynchburg area which they had to meet. However, their statements will be included in the record. In addition, Mr. J. T. Tokarz, Executive Director of the Legal Services Corporation of Virginia, who was asked to comment has sent the Subcommittee a statement which will likewise be made a part of the record.

Mr. DANIELSON. And there are statements which have been submitted by two witnesses, a Mr. Wallace Clair, executive director of the Central Virginia Commission on Aging; and Mr. Junius Haskins, Jr., director of manpower services, Lynchburg Community Action Group; and a third one, Mr. J. T. Tokarz, executive director, Legal Services Corporation of Virginia.

Without objection, I would like to include them in the record.
[The information follows:]

Central Virginia Commission on Aging Inc.

Forest Hill Center
Linkhorne Drive
Lynchburg, Virginia 24503
Telephone (804) 384-0372

Wallace Clair
Executive Director

Gentlemen:

I am Wallace Clair, Executive Director of the Central Virginia Commission on Aging, Lynchburg, Virginia; an Area Agency on Aging that is mandated to try and meet the needs of the 30,000 seniors in Planning District XI covering the counties of Appomattox, Amherst, Bedford, Campbell and the cities of Bedford and Lynchburg. 30% of the elderly in our Planning District are at or below the poverty level. I would like to address some remarks about Legal Aid in Planning District XI.

Since March, 1975, this Area Agency on Aging has been active in providing and sub-contracting services to seniors in PD XI. One of the real needs identified is legal services for seniors, i.e. insurance problems, wills, real estate, social security, S.S.I., and various other situations that present themselves to the seniors who, at this point in time, really have no one to be referred to that can provide this service. Be aware that many elderly persons are reluctant to obtain legal service under existing arrangements:

1. Because they are on fixed incomes and really cannot afford existing legal fees to provide them with the information and service that they require.
2. There are no services available to home-bound persons.
3. Elderly persons feel in many instances it is below their dignity and income to communicate their problems with a lawyer. A need for a legal aid program is readily apparent, one that can provide ongoing education and technical assistance

in solving the problems of the elderly. With good legal services available to the seniors, outreach can be performed, training programs can be developed and assistance given at nutrition sites, senior centers, and various other senior groups now in existence needing this type of assistance and access to legal services.

We have made many referrals to the Legal Aid Society, and, not being aware of their eligibility requirements, these persons referred were not accepted for service. We did request eligibility requirements several times with no response. This no-action response to our request is typical of their lack of coordination of services.

During 1975, I offered to supply Federal funding under Title III of the Older Americans Act to the local Legal Aid Society to assist in fostering and expanding their program. The only response that I received at that time was that the Legal Aid Society was funded by the City of Lynchburg and Campbell County, and was not interested in getting involved in any Federally-funded programs of any kind.

During our Gerontological Research and Survey program funded under HEW and developed through the Lynchburg Health Systems Council, Mrs. Janie W. Dowdy, supervisor of the survey and needs assessment program, made several contacts in 1973 and 1974 with the local Legal Aid Society in an endeavor to obtain certain information from them in reference to the legal services available to the elderly in Lynchburg, Campbell County and PD XI. Mrs. Dowdy, the Program & Research Director for the Central Virginia Commission on Aging, was not given any information of any kind to her inquiries. This negative response from the local Legal Aid Society did cause a definite gap in the gerontological needs assessment survey, the foundation on which we based our criteria for setting up the local Area Agency

on Aging in accordance with the Federal regulations.

In June, 1977, I made contact with the Legal Service Corporation in Virginia in an endeavor to obtain funding for paralegal service for our area. It was indicated at this time that the only funding available was under Title XX of the Social Security Act. However, because of the exorbitant match requirement of 27½% of local cash, it was impossible for this agency to participate in funding any legal services for the elderly. I felt that there must be another way of obtaining aid and assistance to meet this need and I do welcome a new approach with an organization that is willing and able to meet this need, a service that has not been available to the elderly in PD XI.

I am sorry, Gentlemen, that I am not able to attend in person this hearing in Washington because of prior commitments; and the inability to obtain at this late date plane reservations to meet with your time requirements. I will be available at your convenience to respond to you in the event that you wish to further investigate these needs.

Thank you very much.

STATEMENT OF JUNIUS HASKINS, JR.

TO THE

HOUSE JUDICIARY SUBCOMMITTEE ON COURTS, CIVIL LIBERTIES, AND
THE ADMINISTRATION OF JUSTICE

Gentlemen:

My name is Junius Haskins, Jr., and I am a native of Lynchburg, Virginia, having resided here all my life. Since July, 1969, I have worked for the Lynchburg Community Action Group as Manpower Services Director, responsible in that position for employment and hiring in Lynchburg, the City and County of Bedford, and part of Amherst County. Since 1973 I have been Chairman of the Central Virginia Manpower Planning Council, serving all of Virginia's Planning District 11, and of the Governor's Manpower Planning Council. I am Chairman of the Board of Lynchburg's Opportunities Industries Center and a board member of local organizations which are active in the fields of day care, low-income housing, drug addicts' rehabilitation, foster parentage, special education, aid to retarded children, and comprehensive social services. I have also been Vice-President of the Lynchburg Chapter of the NAACP since 1971.

For a long time I have been painfully aware of the legal needs of this area's low-income population, needs which are only increasing as the related problems of poverty and unemployment go unresolved.

In 1973 I began referring low-income people with legal problems to the Legal Aid Society of Greater Lynchburg, at a rate

of four or five people per month. The problems referred concerned mostly domestic relations and garnishments. A little over two years ago I stopped referring clients to that Society because the clients were making too many negative comments about their treatment there. The feedback I received indicated that the staff of LASGL were overburdening clients with complicated forms to be filled out, often without needed assistance, and were insensitive both to the difficulties clients had in expressing themselves and to their needs for supportive, individualized treatment of their problems.

In my contacts with the LASGL staff, I felt that they were interested more in not offending the prevailing economic and social establishment than in providing truly effective legal representation to the poor. LASGL does not, in my experience, give adequate assistance to the people who go there for help. It will not do anything with claims of employment discrimination. Although much of Lynchburg's rental housing is in deplorable condition, LASGL will not press tenants' rights against private landlords. I have had several clients who, having gone to LASGL for help with appealing their denial of unemployment insurance, were told that LASGL would not get involved at that level.

By the time I stopped making referrals to the Legal Aid Society of Greater Lynchburg, I realized that its reputation in the client community was so poor that, had I continued to make referrals to it, my own credibility with the people I was trying to serve would begin to suffer.

The Lynchburg area needs a legal aid society which will reach out to its client population by using the media and such devices as circulars and posters to encourage reticent and uninformed individuals to take advantage of the services available to them. This area needs a legal aid society which will do preventive legal education before community groups, will coordinate effectively with other social service agencies, and will maintain an outreach program to serve homebound clients. The bureaucratic, paternalistic, and narrow philosophy of the Legal Aid Society of Greater Lynchburg is opposed to doing what is necessary to meet these needs. Nothing in its behavior to date indicates that LASGL would change that philosophy just because of an increase in funding.

Respectfully submitted,

Junius Haskins, Jr.
19 May, 1978

RECEIVED

MAY 19 1978

STATEMENT OF J. T. TOKARZ

TO THE
HOUSE SUBCOMMITTEE ON COURTS, CIVIL LIBERTIES, AND THE ADMINISTRATION
OF JUSTICE

My name is J. T. Tokarz and I am executive director of the Legal Services Corporation of Virginia (LSCV). The Corporation was created in November, 1975 to assist in the development of statewide legal services coverage, primarily by use of Title XX funds. At the time of its creation, there were four offices in Virginia funded by the national Legal Services Corporation (LSC) and seven locally-funded offices of varying size. The Legal Aid Society of Greater Lynchburg (LASGL) was one of the latter.

When I was hired as the first full-time employee of LSCV in March 1976, one of my initial responsibilities was to survey the locally-funded offices in the state for their interest in Title XX funding. In the course of that survey and subsequent program development, I talked with Gorman Rosenberger, director of LASGL, on a number of occasions. While he provided me with a lot of helpful information, he expressed his program's clear preference to remain locally funded for a variety of reasons, most particularly because of the interest of local funding sources in maintaining local control. Although this view was not hard to understand in view of the absurdity of many federal regulations, I felt it gave improper weight to the realities of future legal aid development in Virginia.

Subsequently, LSCV tentatively allocated \$20000 in Title XX funds for Lynchburg in the 1976-1977 fiscal year. On July 15, 1976, I talked with Mr. Rosenberger about increasing his program's budget from \$36,000 to \$50,000 with this Title XX supplement and I wrote him that most of his administrative questions could be resolved if his board of directors wanted to work with Title XX funds.

On September 17, 1976, I again talked with Mr. Rosenberger and wrote Mr. David Petty, then chairman of the Lynchburg board, to the effect that his board's consideration of the allocation might be aided by a meeting with Mr. David Levy (then vice-president of LSCV) and I. On November 4, 1976, I wrote Mr. Rosenberger again to say that I regretted his absence from the October Virginia Legal Aid Association meeting and that I would need to know about Lynchburg's interest in Title XX funds during the next few days.

On November 8, 1976, Mr. Rosenberger wrote me to say the Lynchburg board would discuss Title XX at its November 9 meeting. Subsequent to that, Mr. Rosenberger arranged for Mr. Levy and I to meet with the Lynchburg board on December 14 and I wrote him on November 22, 1976 to provide further information in advance of the meeting.

Mr. Levy and I met with about half of the Lynchburg board in Lynchburg on December 14, 1976. At that time, we described LSCV's function as a transition funding source which was attempting to financially assist non-LSC programs like Lynchburg until LSC provided statewide funding. I believe we were accurate and very explicit in forecasting the eventual preeminence of LSC in Virginia, particularly the fact that LSC would eventually fund some program that would include Lynchburg and Campbell County in its coverage area. I feel certain that we (as we invariably did) discussed the possibility of LASGL applying for an LSC grant at some point in the future. We encouraged the board members present to consider the use of Title XX funding until that time.

To the best of my knowledge, we never received a follow-up from either Mr. Rosenberger or the board. My files contain no such correspondence and I remember concluding in January 1977 that the Lynchburg board apparently did not want to utilize Title XX funding. Since Mr. Rosenberger and his staff apparently

focus only on local matters, I believe my next contact with LASGL came in the fall of 1977 when Mr. Rosenberger requested some information in the process of considering an LSC grant application.

To summarize my relationship with LASGL, I would say that the program never exhibited any enthusiasm for federal funding until late 1977 after the Virginia Legal Aid Society had already applied for LSC funding. I can make no observations as to the quality of services provided by the program, but I have always found it unusual that its interaction with other segments of the Virginia legal aid community has been as minimal as it has been.

Respectfully submitted


J. T. Tokarz
May 18, 1978

Mr. DANIELSON. Our counsel, Mrs. Fogarty, I believe, has some questions that Mr. Kastenmeier would have asked.

Mrs. FOGARTY. Thank you.

Mr. Petty, or Mr. Rosenberger, would it be fair to say that but for the VLAS proposal, that your program would not have sought Federal funds from the Legal Services Corporation?

Mr. PETTY. I would say probably not as quickly as we have done. We are under pressure, as is everybody else, to continue to fund a local program and the local governments have difficulty every year in funding these things. We had looked at title XX and we had not looked at the Legal Services Corporation at the time we knew about the VLAS, but we can't really categorically say we never would have done so.

I think we have to look for other sources of funds but that was very much a motivating factor, obviously.

Mrs. FOGARTY. To follow up your answer, you said you did look at title XX. Is it correct that you were asked to consider getting funds from both title III of the Older Americans Act in 1975 and title XX of the Social Security Act in 1978, and you were approached and requested possibly to solicit those Federal funds; is that correct?

Mr. PETTY. I am not aware of the first one you mentioned, the Older Americans Act, but we did have contact under title XX of the Social Security Act. We had met Mr. Tokarz, who has a statement in here today, and Mr. David Levy, who is executive director under the VLAS proposal. They came to Lynchburg and met with our board. We sent our executive director and some of our other staff to several meetings around the State—I would say two or three different meetings—considering title XX type of funding, and when it was presented to us in 1976 we had about a \$36,000 budget and title XX at that time was presented to us as a supplement to our local funding of about \$14,000. When we looked at it, we were made aware by the people from title XX, and as we asked questions, we were made aware that we were going to have to set up almost a dual bookkeeping system to service eligible people under title XX and people that we were ordinarily servicing. We would have to have administrative bookkeeping and space, and for the \$14,000 difference at that time it appeared to us it just did not make economic sense to do that; so we did not pursue title XX at that time.

Mrs. FOGARTY. You had said that you do not handle class actions, that is a policy. Are there other cases or procedures, that you do not handle? For example, do you handle any appeals, including court appeals? Have you appealed any administrative or judicial cases?

Mr. PETTY. What sort of appeal? Social security—yes, we have.

Mrs. FOGARTY. How about cases where you were actually in court, have you filed any appeals in court cases?

Mr. PETTY. I am going to let Mr. Rosenberger answer that.

Mr. ROSENBERGER. We have not filed any appeals to the Supreme Court of Virginia, which is the final step. We have taken many appeals from the two lower courts, the general district court and the juvenile and domestic relations court, from that court to the court of record, which is known as the circuit court. I will say we

have appealed several cases both on unemployment compensation benefits and workmen's compensation benefits, and have taken those cases to Richmond before the full commission of both bodies at different times and have, in fact, been ruled against in Richmond, which is the last step in the administrative process, and have come back and filed suit against, in one case, the Virginia Employment Commission in the circuit court for the city of Lynchburg, and have finally won in that particular grievance.

Mrs. FOGARTY. Have you handled any employment discrimination cases?

Mr. ROSENBERGER. No.

Mrs. FOGARTY. Do you have a policy against it?

Mr. ROSENBERGER. I don't know of any policy we have against it, but it is the type of case that—depending on our staff and the finances that we have—we do not have the capabilities to handle that type of case; it is a practical decision.

Second, there are people in Lynchburg—attorneys—who handle those cases and we always refer those types of cases to the people that we know can handle them.

Mrs. FOGARTY. Have you filed any cases in Federal court?

Mr. ROSENBERGER. Other than the social security, no.

Mr. PETTY. And bankruptcy.

Mrs. FOGARTY. Just one or two final questions: How many times has your board met, say, in the last year and a half?

Mr. ROSENBERGER. If you include from November of 1977 when we heard about the Virginia Legal Aid Society, I would have to say numerous times, because our board has met faithfully at night, in the afternoon, in the morning, concerning the process that we have gone through since November 23, 1977.

I would say probably anywhere from six to eight or nine times.

Mrs. FOGARTY. Prior to November 1977, that prior year, how many times did you meet?

Mr. PETTY. We would meet infrequently, I would say that. We would have an annual meeting, maybe one meeting or so, but we would meet infrequently. I think the record should reflect that.

Mrs. FOGARTY. Have either of you ever attended any professional meetings of legal aid groups?

Mr. ROSENBERGER. Have I?

Mrs. FOGARTY. Yes.

Mr. ROSENBERGER. I have attended a title XX meeting which was called by Mr. Tom Tokarz, who has submitted a statement. I understand, today—and this was not in his statement—called by him in Richmond at his office, concerning title XX, which went on for all day. Other members of our staff have attended other meetings throughout the State. I have not attended as many meetings as I would like to, but at the same time the caseload and the burden that we have with that office in handling as many cases as we do—and we try not to turn anybody away—has just prevented us from going to all sorts of meetings all the time. We attend all of the continuing legal education conferences which are sponsored by the bar association, that deal in areas that affect our practice of law, which have been four or five in the last year or year and a half.

I think what you may be referring to is that it has been said that the Legal Aid Society of Greater Lynchburg is isolated, is an isolated

tionist society. I have cases on my desk now that we are handling for various other legal aid societies in the State of Virginia, many of which are Legal Services Corporation funded legal aid societies. They send me a case; I file them in Lynchburg or Campbell County and handle it; then send them the end result. They call on us. I call on other legal aid societies whenever we need anything done in Fairfax, or in Roanoke, in New River Valley, in Fredricksburg, Charlottesville.

You know, we have used these quite frequently and whenever needed.

Mrs. FOGARTY. In 1977, were either of you aware of the Legal Services Corporation expansion plans; that is, Legal Services had been funded at a higher rate of funding and was planning to expand to new areas?

Mr. ROSENBERGER. I will answer like this: I remember seeing something, a vague reference, and I don't know exactly where. It was in some sort of publication, speaking that Legal Services Corporation was planning on an expansion of legal aid societies or services throughout the country.

I would say this, that with the vast number of unserved areas which existed in Virginia at that time, and which still exist today, that we still don't understand why there were three counties, or two counties and one city, that have been excluded and affirmatively excluded by the Legal Services Corporation, and Lynchburg and Campbell County retained as a part of the Virginia Legal Aid Society.

Mr. RAILSBACK. Would you yield?

Mrs. FOGARTY. Yes.

Mr. RAILSBACK. Can you characterize for us what kind of counties are they that were left out, the ones on the North Carolina border? I know where they are, but I am wondering, can you characterize them for us? Are they in very rural or—

Mr. ROSENBERGER. In very rural areas and they are considered in what is referred to broadly as the general area of southside Virginia, which the Virginia Legal Aid Society covers in addition to three jurisdictions in central Virginia.

Mr. RAILSBACK. What would be the largest towns in those counties that were left out?

Mr. ROSENBERGER. I suppose Galax—

Mr. PETTY. I think Galax.

Mr. RAILSBACK. How large is that city?

Mr. PETTY. I couldn't answer that, Congressman. Mr. Butler might be more aware of that than I.

Mr. RAILSBACK. I have in mind trying to see if there is—

Mr. PETTY. It is not as large as Lynchburg, by any means.

Mr. BUTLER. It is closer to 13,000, I would guess. Galax, Carroll and Grayson, the three of them, have a total of less than 50,000.

Mr. RAILSBACK. But that is what I was going to ask, the total population.

Mr. DANIELSON. Just for the record, according to a map which has been supplied to us by Legal Services Corporation, Carroll County has a total population of 23,092; Grayson County has a total population of 15,439; and the city of Galax has a total population of 6,278. That apparently was 1972 data.

Mr. ROSENBERGER. Congressman, in the Virginia Legal Aid Society proposal it is stated that the three areas—Galax, Carroll, and Grayson—show a total population of 9,643 people.

Mr. DANIELSON. That would be poor population. The figures I gave were total population.

Mr. RAILSBACK. Thank you.

Mrs. FOGARTY. I have nothing further. Thank you.

Mr. DANIELSON. Thank you, gentlemen. Thank you very much for your help.

Mr. Butler, any further questions of these gentlemen?

Mr. BUTLER. No.

Mr. DANIELSON. Then you gentlemen are excused. You are welcome to stay.

We have with us Mr. Charles Mangum, Esq., Lynchburg, Va. Would you come forward, please, Mr. Mangum. I find the name of Mayor Joseph Freeman. The list from which I was working did not have his name. I do have the name and Mr. Freeman will be the next succeeding witness. I just heard Mr. Freeman has a 12 o'clock plane.

Mr. MANGUM. I will yield to him.

Mr. DANIELSON. Since Mr. Freeman has a connection to make, we have to proceed. So, Mr. Mayor Joseph Freeman of Lynchburg, Va., will you take the stand, please.

Would you mind rising and raising your hand? Do you solemnly swear that you will tell us the truth, the whole truth, and nothing but the truth, so help you God?

Mr. FREEMAN. Yes, sir.

Mr. DANIELSON. Mr. Mayor, you are in the witness chair, so if you have a prepared statement, I will, without objection, admit it into the record and then why don't you just tell us what your story is.

TESTIMONY OF HON. JOSEPH FREEMAN, MAYOR OF THE CITY OF LYNCHBURG, VA.

Mayor FREEMAN. Mr. Chairman, I committed my notes to long-hand on the trip up and if I could submit those to be typed, I would be happy to.

Mr. DANIELSON. You certainly may, without objection. There is no objection and they are received in the record.

[The prepared statement of Mayor Freeman follows:]

STATEMENT OF JOSEPH F. FREEMAN MAYOR OF LYNCHBURG

Mr. Chairman, my name is Joseph F. Freeman and I am the mayor of Lynchburg, Va. Since 1972 the city of Lynchburg has supported LASGL, Inc., for the provisions of legal aid services to those in need. In fiscal year 1977-78 the city funded approximately \$29,000 of LASGL's \$39,000 budget and approval of an increase greater than that allowed other agencies was contemplated for fiscal 1978-79. During this time we have been proud of the efforts made by LASGL, particularly its vigorous use of volunteer help, in providing legal services to the poor. Until discussion of VLAS, during my two years in office here I have never heard any criticism of LASGL from inside or outside city government. I have not had any example of failure to act or lack of capacity brought to my attention; I have never heard a councilman allude to inadequate legal aid services.

When LASGL asked city approval for its application for funding expanded services from the Legal Services Corporation, city council made a strong positive response (February 14, 6-1 vote). The city has a policy of aggressive pursuit of federal funds where practical and of cooperative endeavors with surrounding counties when

the governing bodies agree. LASGL's application was in keeping with this; in our eyes it was certainly preferable to the far-flung operation of VLAS. LASGL's proposal, which included on its board at least one attorney from each jurisdiction served and one client representative from each jurisdiction is far more likely to promote cooperative interlocal endeavors than VLAS's 13 member board serving 23 local jurisdictions. The jurisdictions which would have been served by LASGL's proposal are an identifiable, coherent metropolitan area. VLAS has at no time made an effort to contact city council.

Legal Services Corporation's grant to VLAS, with no response of any kind to the city despite the council resolution, makes it abundantly clear that Legal Services Corporation has little regard for or interest in the city's efforts to help serve the poor in need of legal aid services. Accordingly, city council has stricken the legal aid line item from its fiscal year 1978-79 budget. If Congress wishes to exercise exclusive jurisdiction over provision of legal aid services it certainly has power to do so. If I may, however, I would like to close with the observation that such action does not seem in keeping with the spirit of reconciliation and mutual forbearance which our cities so desperately need.

Mr. DANIELSON. Would you mind telling us just the gist of your message?

Mayor FREEMAN. Yes, the gist of it is basically this: The city has for several years funded the local legal aid program. We thought we had a pretty good program. During my time as mayor—that is, 2 years—up until the present controversy developed, we were under the impression that we were doing what we were supposed to be doing. Admittedly, the funding was modest. Last year it was about \$29,000. We were looking to a little bit more than we were allowing other similar agencies this year.

When they came to us in February for approval of their proposal to the Legal Services Corporation, the council endorsed their proposal to seek the expanded funding and additional program that the Legal Services Corporation would provide. Approval was given on February 14 on a 6-to-1 vote.

Mr. DANIELSON. What year?

Mayor FREEMAN. This year, 1978. In our eyes, the local group's application looked a little more manageable; it took in the area that we think of as the natural metropolitan area. With representations on the board that would involve one attorney and one client representative from each of the jurisdictions, it seemed to fit with the notions we have been trying to develop of local cooperation, giving every jurisdiction a chance to participate in a given venture. The city does aggressively seek Federal funds whenever available so Federal funding was not a political problem. We thought, all told, compared to a 13-member board overseeing 23 jurisdictions, that the local one looked a little more comprehensible and something we might have a chance to take a look at, understand what was going on, and if we had any responsibility to bear, that we would have the chance to bear it.

The grant to the Virginia Legal Services Corporation was made with no response to the city, in spite of the formal resolution we passed. If you let me refer to my notes, the lack of communication from Legal Services Corporation makes it abundantly clear that the Corporation has little regard for or interest in the city's efforts to help serve the poor in need of legal aid services. Accordingly, the city council has stricken the legal aid line item from its fiscal 1978-79 budget. This is with the understanding, committed to written correspondence, that if there is a problem going from the local to the Legal Services Corporation provision of legal services that we

will fund it on an interim basis out of contingency funds. We are prepared for that.

If I may express my sentiments, if Congress wishes to exercise its jurisdiction over legal services, it certainly has the power to do so. However, I would like to close with the observation that such action doesn't seem in keeping with the spirit of reconciliation and mutual forbearance which our city so desperately needs.

Mr. DANIELSON. Mr. Butler?

Mr. BUTLER. I thank the witness.

Mr. Chairman, I have no further questions. I believe he covered the points which I asked that he came to testify about.

Mr. DANIELSON. Mr. Ertel?

Mr. ERTEL. I have no questions.

Thank you very much for your testimony. I hope you make your plane on time.

Mr. DANIELSON. Mr. Mayor, has the city of Lynchburg ever done an evaluation of the Legal Aid Society of Greater Lynchburg, and if not, has that ever been proposed?

Mayor FREEMAN. No, sir, we haven't. That is 1 of about 20—what we refer to as outside agencies—that we give funds to, and we make decisions largely by the "seat of the pants" judgment and by what different councilmen hear.

Mr. DANIELSON. You have been mayor for 2 years. Were you connected with the city before that?

Mayor FREEMAN. No, sir.

Mr. DANIELSON. Do you know of any complaints or objections to the service rendered by the Legal Aid Society of Greater Lynchburg?

Mayor FREEMAN. None came to me. I may have received a notice of the November meeting. The notice I saw today is a sort of flier. If something is not addressed to me personally, I tend to initial it and pass it on to the staff, so I may have had notice of that. We hear gossip about different agencies frequently but this was one where we got none at all, so we thought it was doing well.

Mr. DANIELSON. This flier—are you talking about the meeting of November 30, 1977, which has been alluded to by the previous witnesses?

Mayor FREEMAN. Yes, sir.

Mr. DANIELSON. Has the city ever performed an audit of the Legal Aid Society of Greater Lynchburg, and if so, has it been published?

Mayor FREEMAN. I don't believe the city has performed one, no, sir.

Mr. DANIELSON. Do you know if anybody else has?

Mayor FREEMAN. I would have to ask the—

Mr. DANIELSON. Are you aware of any?

Mayor FREEMAN. No, sir.

Mr. DANIELSON. I thank you.

I have no further questions. Thank you very much. I hope you catch a very comfortable plane.

Mr. DANIELSON. Mr. Mangum of Lynchburg, would you please come forward. I am sorry we had to interrupt before, but that is the way it works.

Mr. Mangum, would you raise your hand and be sworn?

Do you solemnly swear to tell the truth, the whole truth and nothing but the truth, so help you God?

Mr. MANGUM. I do.

Mr. DANIELSON. Be seated and proceed.

TESTIMONY OF CHARLES L. MANGUM, LYNCHBURG, VA.: MEMBER, BOARD OF DIRECTORS, VIRGINIA LEGAL AID SOCIETY; FORMER MEMBER, BOARD OF DIRECTORS, LEGAL AID SOCIETY OF GREATER LYNCHBURG; MEMBER, HUNTON YMCA; MEMBER, LYNCHBURG NAACP

Mr. MANGUM. Mr. Chairman, members and counsel, I understand that we are under strict time limitations, and I am awfully sorry for that because, as I understand it, there is another witness after me. I have a lot to say and I guess I might forget a whole lot of it because I will be trying to rush through my testimony.

I would like to say that I am Charles L. Mangum of Lynchburg, Va. I am a Virginia practicing attorney. I have been in Lynchburg for about 12 years and I have been in a peculiar situation, particular situation, in that I am, until I added a partner in the last year, the only black attorney out of about 125 in the standard metropolitan statistical area of Lynchburg, and I get to see a lot of things and do a lot of things, and I, up until about 1974, like to think of myself as being the only attorney there who takes controversial cases.

I was counsel for the State and local NAACP and the only attorney who would work with the ACLU back in those days, and I was aware and worked with the two organizations that I have just named, to instigate or hope to instigate legal services for the indigent and the poor in that area, and it was not exactly the initiative of the Lynchburg Bar Association because, as you know, it is not exactly progressive, those established bodies, and there was some outside pressure to bring in legal services for the indigent; and it was through the OEO program.

Now, like Mr. Petty, I was one of the initial board of directors and I know why the organization was formed. Specifically, it was formed to stop or to prohibit or discourage any other group from coming there with a legal aid program, and that is the reason that that was started. During that time the poor people, the indigent people, became aware of how to petition their government for the needed agencies and help that they could get, so one of the ways to sort of nip this in the bud, as I perceived it, was to start a locally funded Legal Aid Society, and when it was formed it was formed for the specific purpose of not taking class-action suits and not doing too much in Federal courts.

Over the years cases have been referred to the Legal Aid Society that have been turned down. I think you will find that outlined in Mr. Junius Haskins' statement to this committee. Mr. Haskins worked closely with me because I am also the president of the NAACP there, and it sort of strikes me as not funny, but quite serious, what Mr. Rosenberger says about the employment discrimination suits, that they have lawyers in these cases too. I was a part of the team that filed the first employment discrimination suits in the city of Lynchburg and we had five or six of them against the various industries there. I just went back through my

files here and see that as one of those lawyers within the city of Lynchburg, and there are maybe 80 to 100, that I have not received a referral from that august body since February 1975; and, specifically, I have received no employment discrimination cases; so I am wondering whom they are referring those cases to.

I would like to say that one of the first published reports specifically said that we do not want Federal money because there are too many strings attached, and we also do not want class-action suits.

When you get into such things as local funding, you have to realize that the people who are paying the money, the council members, are the very people that you decide that you don't bite the hand that feeds you. The council was supporting that and the councilmen consisted of the businessmen, and you just didn't go against those types of people.

Now I would like to commend the Legal Services Corporation for coming into Lynchburg. I first heard about it back in the early fall of 1977, and because their plan and the activities seemed to be so good, I specifically attempted to get on the board of that organization. It seemed to me at that time to be the most effective vehicle for providing services to the indigent people in the area, and I would like to say right now that I don't foresee this as being a duplication of services, even if the LASGL would stay in business. I see it more as being an expansion of services because of the various areas of law that the LASGL did not go into.

I would like to skip over a lot of the things that I was going to say, but from the point of Federal funding, Lynchburg has never wanted Federal funding. They have all turned it down. That has been made abundantly clear. During those times I did object to Lynchburg not getting Federal funding, but being only one in a house of many, I couldn't change policy and I didn't stay and fight it. What I tried to do to best serve the people of Lynchburg was to work on the board of the LASGL and to do as much as I could there. However, there wasn't too much to be done because the policy was already set.

We met, as I have gone back through my documents here for the board of directors meetings, met once a year and basically approved those actions that the LASGL performed. There are a lot of things that they did not do and a lot of things that the VLAS proposes that I think would make Lynchburg a much better place to live for everybody if this proposal was carried out.

I also would like to express my dismay that this type of hearing had to be held because the newspapers in Lynchburg are picking it up. Just yesterday there was an article in there describing the members of our organization versus the members of the other organization, and when I say "the other organization," it is the organization that I used to be a member of, and the organization that I now am a member of—

Mr. DANIELSON. Sir, let me interrupt, just so the record will be clear. The organization you used to be a member of is what?

Mr. MANGUM. The Lynchburg group, the Legal Aid Society of Greater Lynchburg.

Mr. DANIELSON. The organization you are now a member of is what?

Mr. MANGUM. The Virginia Legal Aid Society.

Mr. DANIELSON. Thank you. Go ahead.

Mr. MANGUM. Lynchburg is an area of people that will pick on any small thing. Like I said, it is not very progressive, but once you will find in the newspaper that it seems to be a dispute among funds, between two groups, then that tends to divide the community that much more; and the community just did not need this kind of division at this time.

Certainly, the Virginia Legal Aid Society has no fight with anyone. The only thing they are trying to do is provide a maximum amount of services to as many people as they can, and I think that this was the intent of Congress when they passed the act.

I understand, as I said, that Mr. Walker Thompson is to follow me, and that you will possibly recess at 12 o'clock, so I have just skipped through my notes real quickly, because I would like to see him answer the questions of the committee.

If there are any questions, I would be very happy to answer anything.

One other thing I would like to say: It was not amusing to me but I noticed then that you asked Mr. Petty and Mr. Rosenberger about the number of cases that they handled, and I notice that they gave the number of applicants, and I have a list—since I was a member at that time as being 1,372, and they said that 851 cases were eligible; but they did not tell you at that time how many of these cases just passed advice and consultation, and as far as I know during my years with them I am not aware of them filing any cases whatsoever outside of bankruptcy and the one particular case of the voting rights of the college student in Federal court.

In fact, I am particularly unaware of more than five cases being filed in any court of record other than divorce and family affairs in the Lynchburg area. And therein you can see that the people were not getting the services that they really should have been getting with the Legal Aid Society of Greater Lynchburg. It might have been because of funding, but if they did not have the necessary funding, then they should have turned to an organization that could give them funding so that they could more adequately represent the people of the area.

Mr. DANIELSON. Thank you.

Mr. Butler?

Mr. BUTLER. I am anxious, since you have taken the trouble to come here, that the record have all you want to say. Is there something that you really want to get in? I would like for you to let us have it.

Mr. MANGUM. Well, I had such little tidbits as—that I think with an organization like this, since maybe 40 percent of their business is minority business, and I don't know how much of that was carried to conclusion, that it would seem to me that it would be a nice gesture that they should have solicited minority personnel for their office. However, this is possibly in keeping with the Lynchburg area in general, and it is my indictment of the judiciary there that out of the six circuit courts in that judicial circuit, we don't have any minorities there employed, and these are some of the things that a legal aid society, if it is going to be a legal aid society, should look into and investigate.

Mr. BUTLER. How long were you on the board of the Legal Aid Society of Greater Lynchburg?

Mr. MANGUM. I was on the board of the Legal Aid Society since its inception until, I think, maybe December of 1977; and when I say the inception, I mean from 1969 to December of 1977, 8 years.

Mr. BUTLER. And when did you go on to the board of the Virginia Legal Aid Society?

Mr. MANGUM. It was in February, after the board was officially installed.

Mr. BUTLER. February of what year?

Mr. MANGUM. 1978.

Mr. BUTLER. February 1978. You were not a part of the Virginia Legal Aid Society in its formative stages?

Mr. MANGUM. No, I wasn't. As soon as I heard about it, I took such measures as to join that group because I figured that it was a better group.

Mr. BUTLER. And it wasn't formed until February 1978?

Mr. MANGUM. Officially, they had some board members; they had some incorporators; but it is my understanding that they didn't install officially—wait, let me back up on that. Because Lynchburg was not in the area, I was in the area that had not been incorporated into it until they got the grant, so my application for board member was held up until after that time.

Mr. BUTLER. No further questions.

Mr. DANIELSON. Mr. Ertel?

Mr. ERTEL. Thank you, Mr. Chairman.

Can you tell me when you became active in the Virginia Legal Services Corp.? When did you start to actively participate with them in forming the Virginia Legal Aid Services—I guess it is called?

Mr. MANGUM. As soon as I heard about it.

Mr. ERTEL. When is that, chronologically?

Mr. MANGUM. It was September or October.

Mr. ERTEL. Of 1977?

Mr. MANGUM. Of 1977.

Mr. ERTEL. So you became active in helping people form or came into the area in September, prior to the time you resigned from the board?

Mr. MANGUM. That is correct.

Mr. ERTEL. Did you actually resign from the board, the Lynchburg group?

Mr. MANGUM. Yes, I did. I did it by letter, to Gorman Rosenberger.

Mr. ERTEL. That is fine.

Mr. BUTLER. We might as well have that date.

Mr. ERTEL. He has already said December. I guess the day of the week is not imperative.

Mr. MANGUM. Without holding you up with other questions, I will find the date while I am answering the questions you have for me.

Mr. ERTEL. Did it ever come to your attention as a member of the board of directors of the Lynchburg group that there were applications for class-action suits or there were certain cases brought to

that group which would justify class-action suits which were not either referred or prosecuted?

Mr. MANGUM. Yes. However, I was aware of the fact that they would not take class-action suits. I have been in the office there—I think it was possibly before Mr. Rosenberger came there—and I had a suit, possibility of a suit, that involved some students who were expelled for more than 5 days without notice and nobody seemed interested. I wanted this case to go through that agency, but no one seemed interested.

Mr. ERTEL. And they would not take it, or they were not eligible? They did not meet the criteria?

Mr. MANGUM. These people would have met the eligibility criteria but for the fact that was not the type of case that would be handled through that agency.

Mr. ERTEL. Have you any other specific instances of where the Lynchburg group may have turned down cases which you felt were justified in taking or at least presenting to the courts?

Mr. MANGUM. I can't give you the specific cases but it is contained in Mr. Haskins' letter there, the cases that he referred to, and he was the vice president of NAACP. I was the president, and also he was the manpower director for the Community Action group and those things were referred. He was also known as our claim chairman of the Legal Redress Committee, and those cases were referred by him.

Mr. ERTEL. Did you ever object to the policy of not taking class-action suits since you were a member of the board of the Lynchburg group from its inception until December of—

Mr. MANGUM. At its inception I did, but as I pointed out, I was just one member of, I think, about 15 maybe, at that time, 15 to 17.

Mr. ERTEL. Do you know if any minority ever applied for employment by the Lynchburg group as either legal counsel or in any other role when they advertised for personnel?

Mr. MANGUM. No. Lynchburg has a very conservative—

Mr. ERTEL. No, you don't know if any minorities applied, or no, they did not apply?

Mr. MANGUM. I know they did not apply to the Lynchburg Legal Aid Society.

Mr. ERTEL. Did they advertise publicly?

Mr. MANGUM. I do not remember seeing any advertisement. They probably did. I am not saying that they didn't; but as Mr. Petty has told you, that inquiries were made to the several law schools and I think that is where all except one of the directors that they obtained came from, from law schools. The first one, Ronald P. Mattox, had some experience of a number of years behind him. He came from Arlington or Alexandria to Lynchburg.

Mr. ERTEL. Are you saying the director had no legal experience other than law school education when he came to your Legal Aid Society?

Mr. MANGUM. That is my understanding of it. We had four directors in the 5 years of existence, 6 years of existence—Mr. Mattox, and Mr. Carwile—he was fresh out of law school; Mr. Pysell, and Mr. Gorman Rosenberger.

Mr. ERTEL. Do you know of any instances where there was outside pressure on the Legal Aid Society itself or the personnel

employed by the Legal Aid Society not to take a case, and which case was not taken because of it?

Mr. GORMAN. Well, I will refer back to the one case that has already been mentioned here. Mr. Mattox, I believe, had to write a response to the board, to criticism for representing the student who wanted to register to vote, and he felt that so much community pressure was against him that he had to write a letter explaining his actions to the board, and in that letter he made mention of the fact that possibly the board's prohibition against class action was valid, legally valid.

Mr. ERTEL. It was explained here that that was a Randolph-Macon student. Is that a private school?

Mr. MANGUM. Yes, it is.

Mr. ERTEL. Was that student on a scholarship that applied?

Mr. MANGUM. Mr. Pysell made that determination as to how he would accept the case, but I think that the people just didn't want class-action suits. They figured it was a class-action suit and going into Federal court and that was just bad for them.

Mr. ERTEL. There is some justification if it is a private school and a person is not on scholarship who has been able to meet the tuition costs which probably are expensive. There might be a justifiable reason that that is a diversion of the assets and the abilities of the legal aid service for the poor to give assistance to somebody who could be from a very wealthy family?

Mr. MANGUM. I would agree wholeheartedly there, but I don't think that was the major issue that the criticism came down on.

Mr. ERTEL. Do you know of any type of suit other than the class-action suit which the Legal Aid Society of Lynchburg has refused or does not handle, either as an unwritten policy as distinguished from a written policy?

Mr. MANGUM. The only thing that I have encountered are the reports that filtered back to me that people were not adequately processed, that there was no sensitivity in dealing with their problems, that they just could not have their problems dealt with generally.

One further criticism that was so plainly evident to me is that the people, the intake people and the people who were being interviewed—they at the same time were all in the same room and it was not a very large room and they were concerned about the fact that other people could hear what their problems were, and that the Legal Aid Society needed more space, individual rooms.

Mr. ERTEL. Did you raise that as a member of the board of directors of the Legal Aid Society?

Mr. MANGUM. When I heard it, I did not. That had been maybe this past summer. It really hadn't occurred to me. My main contact with them was the Board meetings that we had maybe once or twice a year.

Mr. ERTEL. You never raised that with them, even though it came to your attention as a member of the Board of Directors?

Mr. MANGUM. No. There was nothing that I could do with it.

Mr. ERTEL. You certainly could have raised the issue.

Mr. MANGUM. I certainly could have.

Mr. ERTEL. There is an attorney-client privilege which requires privacy but you didn't raise that, and you didn't call the board of

directors or executive director and ask him if there was some way he could correct that situation?

Mr. MANGUM. No, I did not.

Mr. ERTEL. What other things have filtered back to you that you mentioned earlier in your testimony here other than the fact there was no privacy in the interviewing situation? What other things have filtered back to you?

Mr. MANGUM. Well, one of the things is that if you knew somebody you could have your cases handled in the most expeditious manner, but if you didn't—of course, I would imagine that you could get that criticism from anyone, from any law firm, but that was one of the things, another one of the things that came to me.

Mr. ERTEL. As a politician, we have all heard that regardless of where you are. I don't think it is unique in Lynchburg or anyplace in the Nation.

Did you check up on that to see if there was any validity to it, or is that just something somebody gave as an impression?

Mr. MANGUM. Well I talked with a couple of people. One was a black city councilman, the only black city councilman in the city of Lynchburg, and he seemed to have no problems with people, their problems being administered to or advice given from people that he would send.

Mr. ERTEL. I am not sure that I get the context of that, unless you are saying that the city councilman had a little more influence with the people there.

Mr. MANGUM. That is correct.

Mr. ERTEL. Of course, Congressmen seem to think they do too in many instances, to get things done, and maybe sometimes people in public office follow up to see that things get done properly. But do you have anything other than that, any other evidence of anything of that sort?

Mr. MANGUM. No, not that I can think of right now, not that I have made notes on.

Mr. ERTEL. Have you heard any complaints in your community that people have not been able to get appointments or action from the legal services community there?

Mr. MANGUM. I have heard no complaints about people not being able to get appointments.

Mr. ERTEL. So what you are saying is, basically, I guess, you would boil it down to the fact that they have not filed many Federal actions and they have not filed class-action suits, which is a policy of theirs; so let's look at the Federal action for a moment.

Mr. MANGUM. If I could say—I tried not to duplicate what letters that the other people had written, but Mr. Haskins wrote in that and I knew it was part of the record, of the types of cases that have been sent there that were not fully administered to, and the fact that after a year or two of doing that, he just refused to send cases again. So I tried not to duplicate his efforts in that.

Mr. ERTEL. How about the Federal cases, what Federal cases do you expect the Lynchburg group could have taken which they did not?

Mr. MANGUM. Well, consumer rights, truth in lending, employment discrimination, housing discrimination—all forms of discrimination.

Mr. ERTEL. Do you know if those kinds of complaints were made to them?

Mr. MANGUM. By Mr. Haskins.

Mr. ERTEL. Just by him?

Mr. MANGUM. Yes. Under our structure, when people bring those complaints to our group, Mr. Haskins, as chairman of the Legal Redress Committee, would refer the people to the Legal Aid Society, not myself.

Mr. ERTEL. Unfortunately, I am at a disadvantage. I have not read Mr. Haskins' testimony.

Mr. MANGUM. I am sorry.

Mr. ERTEL. I know it is in the file. I saw it there, but I just haven't had a chance to read it. I was just curious to see what complaints you had. It seems to me this thing boils down to a question of who is going to have control, the local group or a broader-based group, is what it seems to me. You are going to have the same number of attorneys?

Mr. MANGUM. Our projection called for three or four attorneys in there. I believe under the Federal guidelines, Lynchburg is maybe at 3.5; and basically under our concept we would have floating attorneys, possibly attorneys that you could call on from other areas and attorneys who would have some expertise in various fields; and we felt that Lynchburg would greatly benefit from this because with two to three lawyers in an office and one of them handling all the administrative work, their expertise and their general knowledge of the law would be greatly diminished; whereas, if you would have several lawyers, maybe 15 to 20, as the Virginia Legal Aid Society envisions, if you would have a lawyer in a particular field that you could call on that person's knowledge or use his bank of forms and briefs to draw on, that would be a whole lot more viable and beneficial to the city than just having a small, three-man office.

Mr. ERTEL. I can see the validity of that, if you were dealing with a compact group such as a law firm which would specialize in certain areas, but it doesn't seem to me if the Virginia Legal Services is going to cover the broad area suggested here, that they are going to get that kind of expertise. They are all going to have to be more or less general practitioners.

I wonder if that is a valid consideration.

Second, with the broad area to cover, how many people are you going to have in administration? I found in law firms you get in that intermediate size, which is about 17 people, you put more time in on administration than you get in production. You have to be very large or very small to get a maximum production. I think to get in an inoperable area of about 13, 10 to 15 to 30 lawyers, you just lose a lot of manpower in administration. That is just my own experience. I served in law firms going all the way from my own, which was 3, to 120 men. That is just the experience I have had.

Mr. MANGUM. Yours is more valid than mine, I would assume, since I have only had two.

Mr. ERTEL. The other thing I wanted to ask you is, how does this get locked in—the Lynchburg group, when they formed that board of directors, nine lawyers who would then appoint the other eight—how was that locked in that the bar association would ap-

point through its own members the other eight members? Did you consider that unusual?

Mr. MANGUM. I did, but I wanted to participate, because I wanted to be in a——

Mr. ERTEL. Did you consider any other way, another way that they could be drawn from the community?

Mr. MANGUM. Did I suggest it?

Mr. ERTEL. Yes.

Mr. MANGUM. No, I didn't. I could have suggested it.

Mr. ERTEL. I just wondered if anybody raised that point as to those other eight members. If they were supposed to be representative of the people, wouldn't it be more appropriate for other than the bar to select those people?

Mr. MANGUM. Well, I have to admit that I was part of the process. You understand, if I wanted to be a part of the process I had to act as a part of the process, and I did recommend some of the people to serve on the board, people who I thought were good people and that would protect the interests of the indigent people in Lynchburg.

Mr. ERTEL. Were they selected?

Mr. MANGUM. Yes.

Mr. ERTEL. So then it was representative in a way?

Mr. MANGUM. In a way it was; however, there was always very poor attendance of the board members.

Mr. ERTEL. Thank you very much.

Thank you very much, Mr. Chairman.

Mr. DANIELSON. Mr. Mangum, I only have a couple here.

You say that you became acquainted with the proposal of the new group probably in October 1977?

Mr. MANGUM. Yes.

Mr. DANIELSON. You were still at that time a member of the Legal Aid Society of Greater Lynchburg, a member of the board of directors?

Mr. MANGUM. Yes.

Mr. DANIELSON. And you continued to be until some time in December 1977?

Mr. MANGUM. Yes.

Mr. DANIELSON. Did you inform your other board members or any of the people at the Legal Aid Society of Greater Lynchburg that you were aware and talking with the people at VLAS during October?

Mr. MANGUM. No. You have to bear in mind that the board only met once a year and I saw no need. I was sure that the board knew of the proposal.

Mr. DANIELSON. You thought they knew about it, but did you ever speak to them about it?

Mr. MANGUM. No; I did not speak to them.

Mr. DANIELSON. Nor to Mr. Rosenberger or Mr. Petty?

Mr. MANGUM. No. These things were published in the Virginia bar news and other publications.

Mr. DANIELSON. To answer my question, though, you did not?

Mr. MANGUM. No, I did not.

Mr. DANIELSON. Were you aware of the proposal that the Virginia Legal Aid Society submitted to the Legal Services Corporation on or about the 28th of November 1977?

Mr. MANGUM. I think I received a copy of that proposal, maybe in January or February.

Mr. DANIELSON. It would be sometime later?

Mr. MANGUM. Yes.

Mr. DANIELSON. Were you aware of the proposal that the Legal Aid Society of Greater Lynchburg prepared and submitted to the Legal Services Corporation on or about the end of December?

Mr. MANGUM. No, I don't think that they sent me a copy of that proposal.

Mr. DANIELSON. You aren't aware of it at least; is that correct?

What are your principal objections to the type of service rendered by LASGL?

Mr. MANGUM. They just did not go far enough; they didn't handle all the types of cases that would have benefited the people who would have been eligible under the guidelines set by Congress.

Mr. DANIELSON. Insofar as the cases they handled were concerned, do you have any quarrel with the manner in which they handled them?

Mr. MANGUM. No; not that I can think of any right now. I just didn't see them.

Mr. DANIELSON. You just didn't see them assuming a broad enough responsibility?

Mr. MANGUM. I saw them as handling most of the things administratively and if you satisfy clients by handling the cases administratively, then I couldn't complain.

Mr. DANIELSON. Well you didn't see anything approaching malpractice or negligence?

Mr. MANGUM. No.

Mr. DANIELSON. It was just that they didn't reach all the types of cases that you felt they should have reached; is that basically it?

Mr. MANGUM. That is correct.

Mr. DANIELSON. Were you aware that the proposal they submitted to the Legal Services Corporation—in it they agreed to take whatever types of cases were within the guidelines of the Legal Services Corporation?

Mr. MANGUM. I am aware of that now. I have been aware of that for some time now.

Mr. DANIELSON. But you were not? When did you become aware of that, for example?

Mr. MANGUM. Shortly after they filed their proposal, which I believe was the 1st of February.

Mr. DANIELSON. Did you participate at all with VLAS in their preparing of their proposal to the Legal Services Corporation?

Mr. MANGUM. No; I was sent an addendum—I guess you would call it an addendum—to their original proposal, but I didn't participate. I gave some insight into it but I didn't actually do the writing of it myself.

Mr. DANIELSON. By insight, what do you mean?

Mr. MANGUM. The reasons why Lynchburg would benefit from the VLAS and why the central office should be in Lynchburg, as compared to any other place.

Mr. DANIELSON. That would be some kind of consulting, or conversing at least, with the persons who were preparing the proposal?

Mr. MANGUM. That is correct.

Mr. DANIELSON. Giving them, I guess, input is another word?

Mr. MANGUM. That is correct.

Mr. DANIELSON. When did that take place?

Mr. MANGUM. That must have taken place maybe the first of January, the last of December, as best I can remember.

Mr. DANIELSON. They made that proposal on the 28th of November, I understand.

Mr. MANGUM. Let me see if I can find it here. There was a document that it is not indicated but it is a tentative plan for delivery of services by the Virginia Legal Aid Society, and it is dealing with the central office and what the central office could do and why Lynchburg should be the site of the central office.

Mr. DANIELSON. When was that, a date or as close as you can approximate it?

Mr. MANGUM. No; that I would be hard put to say. It would have to be somewhere around December or January, the first of January.

Mr. DANIELSON. December 1977, or January 1978?

Mr. MANGUM. Yes; that is the best of my recollection.

Mr. DANIELSON. What amount of funding is going to be available through VLAS for the Lynchburg-Campbell County area?

Mr. MANGUM. I don't have a breakdown of that. It is my impression that it is somewhere between \$70,000 to \$90,000.

Mr. DANIELSON. Between what?

Mr. MANGUM. \$70,000 to \$90,000.

Mr. DANIELSON. \$70,000 and \$90,000?

Mr. MANGUM. Yes.

Mr. DANIELSON. Are you aware that the funding for the last year that we have any date on was \$34,000, more or less?

Mr. MANGUM. I am aware of that and I believe that is the reason that they didn't perform adequate services. As Mr. Gorman said, they just didn't have enough lawyers. I mean, Mr. Rosenberger. I call him Mr. Gorman.

Mr. DANIELSON. If the LASGL could have had \$70,000 or \$90,000, they probably could have performed better services, could they?

Mr. MANGUM. If they would not have been restricted by their guidelines, as had been previously established.

Mr. DANIELSON. But with modification of their guidelines, they could have performed substantial service?

Mr. MANGUM. They could have.

Mr. DANIELSON. I note within the general area—you could expand that area pretty big; it is in Virginia—there is a Fredricksburg Area Legal Aid Society, Inc.—

Mr. MANGUM. Yes.

Mr. DANIELSON [continuing]. Which is apparently still in existence, and I assume is funded through Legal Service Corporation?

Mr. MANGUM. I am of that opinion.

Mr. DANIELSON. There is also a Legal Aid Society of New River Valley, Inc., which is out around Radford?

Mr. MANGUM. I believe that is newly formed; I am aware of that agency.

Mr. DANIELSON. Nevertheless, it is one that has a geographical size not much different from the proposed Lynchburg size, at least according to this map?

Mr. MANGUM. Yes.

Mr. DANIELSON. There is another one, the Smyth-Bland Legal Aid Society, far west, and there is a Charlottesville-Albemarle Legal Aid Society just a little farther to the north; and the Legal Aid Society of Roanoke Valley, just immediately to the west of the Lynchburg area.

What I have in mind here is this: All of these other societies seem to have continued in existence and I think we can assume that they are all going to be receiving funding from the Legal Services Corporation, since it is axiomatic when Federal funds are available the local funds dry up. Inasmuch as those organizations are still in existence and apparently will live up to the guidelines, what reason would there be not to permit the 8-year-old Legal Aid Society of Greater Lynchburg to continue in existence?

Mr. MANGUM. I see no need for them to go out of existence; they are going out of existence because of willingness or desire of their own, and Legal Aid Society of Virginia—the Virginia Legal Aid Society—is mandated by the president of the Legal Services Corporation and Walker Thompson, regional director, to work closely with the Legal Aid Society of Greater Lynchburg to incorporate them into our program, if necessary, and to hire the staff people if we could possibly do it. It is certainly not an intention of the Virginia Legal Aid Society to drive anyone out of business or anything.

Mr. Danielson No, I am sure it is not the intention of the Virginia Legal Aid Society, but let's face a fact that we can all recognize. When federally collected tax money is made available within a community to perform a certain function, the local cities and counties, and State if necessary, immediately turn off their spigot of funds. That is as axiomatic, I think, as the law of gravity. There is no variation from it. Once you cut off the funds, the organization will cease to function. So this is the only thing that really bothers me here. Legal Services Corporation is funding legal service in this Lynchburg area to a new organization, thereby automatically cutting off the funds. They are causing the funds to be cut off, I should say, from the existing organization.

There certainly arises a question of whether Legal Services Corporation is conforming to the mandate of not overlapping other services and not trying to duplicate. They could at least through the incentive of the carrot and the stick: You get the money if you take care of the class action, et cetera; you don't get the money if you don't take care of the class action, et cetera—they could utilize the ongoing operation and provide the services that the community needs?

Mr. MANGUM. Yes.

Mr. Chairman, I would like to point out there that, as I said before, I don't think there is a duplication of services. I think it is an expansion of services, but it is my impression that the money has been here for a year or more from two or three different

sources for the Lynchburg group, the group that I formerly belonged to, to obtain these funds and to provide more services.

Mr. DANIELSON. Where would they obtain them?

Mr. MANGUM. From the Legal Services Corporation.

Mr. DANIELSON. You feel the Legal Services Corporation would fund two organizations to work in this area?

Mr. MANGUM. No. I am saying, prior to the Virginia Legal Aid Society applying for the funds, that the funds were available and they were just not applied for by one group, and I don't think that since another group—

Mr. DANIELSON. I can't answer that and you may be correct. I just don't know the answer to that.

I do know, however, that it is only in the last year that we provided enough funds to the Legal Services Corporation to see they can commence doing some expanding.

Anyway, I thank you for your cooperation and I wish the time weren't running out so fast, but it is.

Mr. MANGUM. Thank you.

Mr. DANIELSON. Thank you very much.

Why don't you continue, and I will be back very shortly.

Mr. BUTLER [presiding]. Do you have any questions?

Mrs. FOGARTY. Yes.

Mr. Mangum, I just have one question, and that is: Looking at the program that has been proposed by VLAS, do you feel that it affords the local community, the Lynchburg area, enough input and enough control? And if so, what measures have been offered and conditions that would do that?

Mr. MANGUM. Basically, I would think that the conditions in Lynchburg aren't any greater or any different from the conditions of the people in the other areas of the State. I don't like, though, to think of the State being sectionalized and say Lynchburg is not a part of the southside and maybe the southside of Virginia feels a little bad or they are below Lynchburg. I see it as each area and Lynchburg would have an advisory board made up of different people in the community, a representative number of people in the community from all of the agencies and groups of people.

They would have an advisory committee and also they would have a representative on the board, so I think that through these two vehicles, that Lynchburg would receive adequate services from the Legal Aid Society—Virginia Legal Aid Society.

Mrs. FOGARTY. Do you think that the size of the program—23 units—that includes counties and cities—is a manageable size?

Mr. MANGUM. Oh, I think so. It is my impression that there are several legal aid societies in the country that are larger than that and I see no large problem with administering an agency of this size.

Mrs. FOGARTY. Thank you.

Mr. BUTLER. Just for the record, the proposed Virginia Legal Aid Society, which includes the 23 counties, has one board member from Lynchburg. Is that the way it is set up?

Mr. MANGUM. That is the way it is now.

Mr. BUTLER. Would you like to identify that person for the record?

Mr. MANGUM. I am that person from Lynchburg, although I am on there through, I think, the sponsor, one of the sponsors of the Virginia Legal Aid Society.

Mr. BUTLER. And how were you selected? I just am not aware.

Mr. MANGUM. Representative of the NAACP.

Mr. BUTLER. The NAACP nominated you, or you were there through somebody recommending you from Lynchburg?

Mr. MANGUM. I am there as a Lynchburg resident and I am there under the auspices of the NAACP from that area. I am minority personnel from the Lynchburg area.

Mr. BUTLER. So you are there in two capacities then?

Mr. MANGUM. Yes.

Mr. BUTLER. Are you representing a geographical area and representing minority?

Mr. MANGUM. Yes. Right.

Mr. BUTLER. I thought the guidelines provided for representation according to clients?

Mr. MANGUM. Clients. You have to realize that the NAACP is dealing basically with indigent people and minorities.

Mr. BUTLER. So you are representative of eligible clients?

Mr. MANGUM. Yes.

Mr. BUTLER. Thank you.

Thank you, Mr. Mangum.

Mr. MANGUM. All right. Thank you.

Mr. BUTLER [presiding]. The next witness is Mr. Walker Thompson. Mr. Thompson is the regional director of the Northern Virginia Region, Region 4 of the Legal Services Corporation.

Will you stand and be sworn?

Do you promise to tell the truth, the whole truth, and nothing but the truth, so help you God?

Mr. THOMPSON. I do.

Mr. BUTLER. Thank you. Be seated. You have a formal statement. You would like to read that, or summarize it, or what is your pleasure?

TESTIMONY OF WALKER T. THOMPSON, ESQ., REGIONAL DIRECTOR, NORTHERN VIRGINIA REGION, REGION NO. 4, LEGAL SERVICES CORPORATION

Mr. THOMPSON. Mr. Chairman, I have a lengthy, detailed, formal statement which I have submitted to the committee.

Mr. BUTLER. Without objection, that will be filed as part of the record.

[The information follows:]

STATEMENT OF WALKER T. THOMPSON, REGIONAL DIRECTOR, LEGAL SERVICES CORPORATION

I am Walker T. Thompson, the Director of the Legal Services Corporation's Northern Virginia Regional Office. The Regional Office has the responsibility of implementing the Legal Services Corporation Act in the states of Michigan, Ohio, Virginia and West Virginia. My duties include monitoring legal services programs in the region, as well as coordinating plans for expansion of service to new areas.

The Legal Services Corporation Act of 1974 creates the Legal Services Corporation's responsibility to support "high quality legal assistance to those who would be otherwise unable to afford adequate legal counsel." 42 USC §2996(2) That mandate was founded on the Congressional judgment that "equal access to the system of justice in our Nation" must be provided to all individuals. 42 USC §2996(1)

When the Corporation began operations in 1975 the resource distribution among legal services programs throughout the country was not based on demographic or geographic considerations. Moreover, from 1971 to 1975, federal funding of legal services programs was frozen, despite the fact that costs increased more than 30 percent due to inflation. As a result, the 258 legal services programs for which the Corporation assumed responsibility were distributed unevenly throughout the country. Virginia was one of the states which had suffered most, for despite large populations of poor people, only 19.9 percent of the state's poor persons lived within areas served by programs.

In 1977, the increase in the Corporation's appropriation enabled it to undertake the first significant expansion into previously unserved areas. That effort has continued and as a result, 464,552 poor persons in Virginia, 67.4 percent of the total now live in areas which are provided services by Corporation-funded programs.

In providing funds to achieve equal access, the Corporation must "ensure that grants and contracts are made so as to provide the most economical and effective delivery of legal services to persons in both urban and rural areas." 42 USC §2996f (a)(3) In order to ensure the most economical and effective allocation of expansion funds, as required by the Act, the Corporation established the following policies as guidelines for the award of those funds:

- 1) Priority was to be given to those states and areas within states where the largest number of poor persons resided in areas without access to legal services programs.
- 2) Within any given state priority was to be given to funding through administrative units that would provide services to the largest number of eligible clients (including those in rural areas) in the most efficient manner. The willingness of applicants to become a part of such administrative units would be an important factor in funding new programs.
- 3) Where the provision of service in new areas could be accomplished as well by expanding geographic coverage of existing LSC programs of proven effectiveness, these existing LSC programs were to be given priority.
- 4) The grantee would be required to limit its geographical area so that it could provide services at the level of \$4.90 per poor person residing in the service area.

- 5) Outside funds available to an applicant were to be considered by the Corporation in defining the areas to be served by expansion funds; appropriate adjustments were to be made in the level of funding where outside funding plus proposed Corporation funding would allow a program to operate at a level in excess of the intermediate level of two attorneys per 10,000 poor persons, defined by the Corporation as "minimum access" to legal services.

I. Grant to the Virginia Legal Aid Society

On March 30, 1978 the Legal Services Corporation awarded \$529,151 of Fiscal Year 1978 Expansion of Access funds to the Virginia Legal Aid Society ("VLAS"). Those funds were awarded to enable VLAS to provide legal assistance to 107,990 poor persons in 23 counties and cities in Virginia.

In addition to standard grant conditions, the grant to VLAS contained the following special grant conditions designed to ensure that every effort be made by VLAS to work with the locally funded Legal Aid Society of Greater Lynchburg ("LASGL") to provide effective services to poor persons in the City of Lynchburg, Appomattox and Campbell counties:

- 1) Prior to spending any grant funds, VLAS must structure its Board of Directors to include attorneys from the areas to be served and to reflect the interests and characteristics of the eligible client population, in accordance with the Legal Services Corporation Act, as amended, and applicable Regulations;

- 2) Within sixty (60) days of receiving any funds, but prior to expending any grant funds for providing legal services to low-income persons in the City of Lynchburg, Campbell County, or Appomattox County, VLAS must submit to the Corporation an acceptable report documenting its good-faith efforts to consolidate its activities in those areas with those of the Legal Aid Society of Greater Lynchburg in a manner that will, while maintaining necessary responsibilities in VLAS:
- (a) retain the name of the Legal Aid Society of Greater Lynchburg for the office located in the City of Lynchburg;
 - (b) establish a local advisory board for the City of Lynchburg, Campbell County, and Appomattox County;
 - (c) retain staff members of the Legal Aid Society of Greater Lynchburg who meet the professional standards and needs of VLAS; and,
 - (d) to the extent feasible, retain the goodwill and local funding developed by the Legal Aid Society of Greater Lynchburg.

The grant and its special conditions followed an exhaustive process which led to the conclusion that pursuant to the Legal Services Corporation Act and the "Guidelines for the Selection of Applicants to Serve New Areas", VLAS was the appropriate recipient of Fiscal Year 1978 "Expansion of Access, New" funds.

III. Process for the Review of Applications

The Regional Office planning process for expansion of legal services in Virginia began when the office opened in November 1976, with my participation in the annual meeting of the Virginia Legal Aid Association ("VLAA") and the regularly scheduled board meeting of the Legal Services Corporation of Virginia ("LSCV").^{1/}

^{1/} The Virginia Legal Aid Association is a statewide organization of all legal aid programs in Virginia. Its membership includes programs funded from federal and state, local and private sources. The Legal Services Corporation of Virginia is an organization established by the Virginia State Bar to administer Title XX funds to legal aid programs and to generally coordinate legal aid activities in the state.

It was in consultation with these organizations, as well as with the Chairman of the Virginia State Bar's Committee on Legal Aid, that plans for LSC expansion of legal services in Virginia were developed in late 1976, 1977 and 1978.

In February 1977, our office compiled a mailing list of all persons and organizations who had expressed any interest in receiving funds for or information about legal services. These persons and organizations were invited to attend a regional meeting in April, 1977 to discuss 1978 expansion planning. The Virginia participants indicated that the priority for 1978 Corporation expansion should include central, southside and southwest Virginia.

In March, 1977, our office conducted an extensive socio-economic and demographic analysis of the areas of Virginia that were not covered by Corporation-funded programs. The results of this analysis were thoroughly discussed by participants at a March, 1977 meeting sponsored by VLAA and the Chairman of the Virginia State Bar's Committee on Legal Aid and the April, 1977 regional meeting.

A. VLAS Application

In June, 1977, we received an application for expansion funds from VLAS. We conducted an in-depth review of the application, examining the proximity of proposed offices to local, state and federal courts, to law libraries and local and state government administrative centers. We reviewed transportation routes in the proposed service areas. Moreover, the Regional Office staff was in

continuing contact with the sponsors ^{2/} of the VLAS proposal, several attorneys in the proposed service area and other attorneys who were interested in legal services. We were also advised by the sponsors of the proposal that they were soliciting comments on the proposal through mailings to approximately forty groups in the service area.

Our consultations with the groups and persons mentioned above were reasonably calculated to reach all those in Virginia interested in legal services in general, and in the VLAS proposal, in particular. As a result of these consultations, we received inquiries from eligible clients in the area and interested organizations, such as the Halifax County Bar Association and the Danville Bar Association. In October, 1977 at the annual VLAA meeting, the preliminary 1978 expansion recommendations were announced by a member of my staff, as indicated on the conference agenda mailed in advance to all VLAA members.

^{2/}

The application was prepared by John Levy, Director of Clinical Education, William and Mary Law School. Mr. Levy has been associated with three legal aid programs in Virginia -- staff attorney, Legal Aid Society of Roanoke Valley; Director, Neighborhood Legal Aid Society, Richmond, Virginia; (presently) Board Member and Director, Williamsburg Office, Peninsula Legal Aid, Hampton, Virginia. Jack M. Gravely, the original Chairperson of the VLAS Board, had been a Reginald Heber Smith Fellow and legal services attorney in Virginia for three years. James Ghee worked for the national Welfare Rights Organization after graduating from the University of Virginia School of Law. He is now in private practice in Farmville, Virginia. He is also a member of the Board of Directors of Neighborhood Legal Aid Society.

This extensive evaluation process indicated a tremendous need for legal services in central, southside and southwest Virginia, some relatively minor concerns about the feasibility of the original VLAS proposal, but concluded with a positive view of the proposal. In order to more thoroughly address these concerns about feasibility of the VLAS proposal, directors of two legal services programs in Virginia were asked to assist in the evaluation. Under contract with the Regional Office, these experienced directors conducted another review of the feasibility of the VLAS proposal. Public meetings were announced and held in various communities to allow interested individuals the opportunity to share their comments and concerns about the need for legal services and the VLAS proposal. In some areas, surveys were conducted and the Corporation's film, "A Day of Justice", was shown to participants in public meetings. Announcements were made in churches. Together, the contractors spent more than 232 hours in evaluating the VLAS proposal and speaking to representatives of local bars and community groups and organizations in each of the areas proposed for service by VLAS.^{3/}

With particular regard to Lynchburg, on November 23, 1977, Henry Woodward, one of the contractors, met LASGL Director Gorman Rosenberger and LASGL Board member Bernard Baldwin III in Lynchburg to discuss the proposed VLAS application. Woodward also attempted unsuccessfully on that date to meet with Board Chairman

^{3/}

While the original application of VLAS proposed services to southwest counties and cities, and an office in Richmond, those proposed areas were subsequently eliminated to ensure a cohesive and effective plan consistent with the announced allocation for the expansion of new access funds for the State of Virginia. Similarly, with new programs restricted to funding at the rate of \$4.90 per poor person, the placement of a separate office in Richmond, Virginia was no longer viable.

David Petty. On November 28, 1977, Woodward again went to Lynchburg and met with LASGL Board member Rev. Haywood Robinson, Jr., Gorman Rosenberger and former LASGL Board member Raymond Baker to discuss the VLAS proposal. On November 30, 1977, Woodward held a public meeting in Lynchburg to discuss the VLAS proposal. Representatives of LASGL attended the meeting and participated actively. Numerous persons were contacted by Woodward during the consultancy.^{4/}

In addition, I spoke with Gorman Rosenberger at length on two occasions by telephone on November 28, 1977. I advised him that the LASGL Board would have a full opportunity to consider the VLAS application and submit any comments or recommendations before the grant was finally acted on. I assured him that Margaret Poles, a member of my staff, and Henry Woodward would meet with the LASGL Board in Lynchburg with respect to the VLAS proposal.

On December 12, 1977, Margaret Poles and Henry Woodward met with the members

^{4/} Woodward contacted the following persons: Bernard Baldwin, III, attorney, Board member, Legal Aid Society of Greater Lynchburg; Wallace Clair, Director, Lynchburg Area Office on Aging; Charles Mangum, attorney, Board member, Legal Aid Society of Greater Lynchburg; Robert Spence, Director, Lynchburg Youth Services; Mary Margaret Cash, Virginia Council on Social Welfare; J. Garnell Stamps; O.C. Cardwell, manager, Virginia Mutual Benefit Life Insurance Company; Carrie Matthews, member Board of Directors, LSCV and member, state Welfare Department's Client Advisory Committee; Marjorie McClennon, member Board of Directors, Community Action Group, Inc.; Glenn Webster, Lynchburg Youth Services; Chauncey Spencer, retired police chief from Cleveland; the Honorable James C. Turk, Judge U.S. District Court for the Western District of Virginia; Edward Graves, Lynchburg private attorney, Susie Brimgardner, Deputy Executive Director, Lynchburg United Way.

of the Board of Directors of LASGL. Subjects discussed during the meeting included the guidelines for awarding expansion grants, our grant solicitation process, and our initial recommendation to fund VLAS,

B. LASGL Application

During the statutory 30-day comment period, the Corporation received a request for an extension of time in order to allow the LASGL to comment on the VLAS application and to submit an application of its own. On December 19, 1977, the President of the Corporation, Thomas Ehrlich, granted the request, and extended the time period to January 31, 1978. On January 31, 1978, LASGL submitted its application to the Regional Office. The application was reviewed for compliance with the Legal Services Corporation Act, Regulations and Guidelines for Expansion. As part of the review of the LASGL application, staff of the Regional Office visited Lynchburg on several occasions and met with the Board and staff of LASGL. We also spoke with numerous persons in the Lynchburg area, ^{5/} In addition to the LASGL application, numerous correspondence and

^{5/} Between January 3 and January 5, 1978, Margaret Poles, of my staff, interviewed the following persons in Lynchburg: Wallace Clair, Director Lynchburg Area Office on Aging; Janie Dowdy, Project and Research Director, Lynchburg Area Office on Aging; Carrie Matthews, welfare recipient, member of the Virginia Department of Welfare's Client Advisory Committee, Board member Legal Services Corporation of Virginia; Rev. Haywood Robinson, Director, Lynchburg Community Action Group Incorporated, Board member Legal Aid Society of Greater Lynchburg; Linda Davis, Consumer Advocate, Lynchburg Community Action Group Incorporated; Julius Haskins, Director, Lynchburg Manpower Services; Mary Sadler, Executive Director, Central Lynchburg YMCA; M. W. Thornhill, Jr., member Lynchburg City Council, President Lynchburg Voters League; Robert Spencer, Director, Lynchburg Youth Services; Mary Walker Fletcher, Director, Campbell County Senior Citizens Center; Charles Elliott, VPI Extension Agent, Campbell County, Appomattox County, City of Lynchburg; Tony Anthony, Reporter, Lynchburg News and Lynchburg Daily Advance; Pauline Maloney, President Southeastern Educators Association; Silla Brown, Director Campbell County Department of Social Services; Barry Jones, Social Worker, Campbell Co. Dept. of Social Services; Judith Gilchrist, Social Worker,

resolutions from bar associations, government agencies and individuals in the service area were carefully reviewed.

Our evaluation of LASGL raised serious questions as to the ability and willingness of the program to deliver economical and effective legal services to the poor persons in the service area. Examination of the program's caseload reports raised troubling questions. According to LASGL's caseload statistics for the 21-month period ending March 31, 1977, program attorneys handled no consumer credit actions, no landlord-tenant actions, and only one welfare hearing. In its Yearly Report for the period ended July 7, 1976, LASGL reported that from 1,372 applications for service (of which a total of 851 applicants were found eligible), 253 cases required "involvement" before courts or administrative agencies. The report states:

"It is good to report that the majority of our cases during the last twelve months were settled or are being settled without having to resort to court proceedings. Although the number of cases handled have increased over the last year, we have been able to proceed at a reasonable pace in disposing of and closing them. It is also noteworthy that it has only been necessary for us to appear in court a few times for such matters as consumer disputes, landlord-tenant problems, debt cases, or contract disputes. The great majority of these matters have all been settled out of court." (p. 4)

5/ (Cont'd.)

Campbell County Department of Social Services; Charles L. Mangum, Esq., President Lynchburg NAACP, Present Board Member VLAS, former Board member LASGL; and, L. Garnell Stampts, Board member Lynchburg Community Action Group, Inc., public school teacher, Lynchburg, Va., member, Lynchburg OIC.

In its report for the nine-month period ending on March 31, 1977, an almost insignificant number of matters necessitated involvement before a judicial or administrative body outside of the family law area. While litigation, for its own sake, should not be condoned, such lopsided statistics raise concerns that valuable claims and defenses of clients may have been needlessly sacrificed or bargained away in an effort to achieve expedient settlements.

An additional concern was raised by the 1969 report of the Lynchburg Bar Association's Committee on Legal Aid. This report recommended the establishment of a legal aid society for the area and expressed a strong preference for local, rather than federal funding. The Committee report characterized federal funding as tied to too many "strings" which might require the program to emphasize "neighborhood self-help and economic development projects, law reform activities and improvement of police-community relations."

We learned further that during the nine years since its formation, LASGL had apparently remained steadfast in its desire to operate strictly with local funds. In 1976, the program was approached by the LSCV for the purpose of submitting an application for federal Title XX funds available for legal services. The LSCV solicitation received no response from LASGL. Sometime later, a solicitation from the Area Agency on Aging for LASGL to apply for funds to hire a senior citizen paralegal met with similar non-response.

The failure of LASGL's attorneys to participate in training programs sponsored for legal services attorneys in the state or other joint meetings of legal aid societies had earned LASGL a reputation for being "isolationist". The Virginia State Bar Association, in responding to the Regional Office's notice regarding the VLAS grant application, acknowledged that LASGL "had no real involvement with the State Bar or the Legal Services Corporation of Virginia." LASGL's isolation from other legal services programs in the state and the program's pattern of law practice indicated it would not serve as the most effective legal advocate for the poor in the Lynchburg area.^{6/}

The on-site visits conducted by Regional Office staff yielded no more encouraging information. Persons associated with social service agencies in the area gave the program generally unfavorable reviews. Program personnel were portrayed as being unresponsive, insensitive and even rude to clients. Interviews with the program's staff indicated that some key members of the staff lacked rudimentary knowledge about basic laws affecting the rights of poor people. Minimum efforts toward quality control and caseload supervision appeared to be non-existent. Staff members had little involvement in either client outreach or community education activities. Inadequate program facilities

^{6/}

Questions were raised when LASGL Director Gorman Rosenberger informed consultant Henry Woodward that the program had never filed a federal suit and, in fact, had a policy against filing class actions. Woodward's assessment of community views toward the program is as follows:

"The community people with whom I spoke in Lynchburg did not have a very high opinion of the program. Whether accurately or not, they perceive it as a tool of the local bar; as eschewing controversy, particularly with its local government funding sources; as slow and arbitrary in providing divorces; and as unaware of and unresponsive to the needs of the poor, particularly in the black community."

routinely resulted in serious breaches of client confidentiality. Our evaluation process compelled the conclusion that the Legal Aid Society of Greater Lynchburg could not be separately funded consistent with the Legal Services Corporation Act requirement that the Corporation "ensure that grants and contracts are made so as to provide the most economical and effective delivery of legal services to persons in both urban and rural areas".

On February 24, 1978, I recommended to the President of the Legal Services Corporation and to the Director of the Division of Field Services that expansion funds be awarded to VLAS. (See Attachment, "Recommendations for Fiscal 1978 'Expansion of Access, New' Funding -- Lynchburg, Virginia, Campbell, Appomattox, Amherst Counties, Virginia")

The recommendations included special grant conditions to preserve the identity and local funding of the Legal Aid Society of Greater Lynchburg. The recommendations were distributed, providing interested parties an adequate opportunity to comment prior to any final decision being made. The recommendations as well as comments made by LASGL were reviewed carefully by the President of the Legal Services Corporation, who met personally with representatives of LASGL in Lynchburg. Then, after considering the information, on March 30, 1978 the President of the Corporation made the grant to VLAS. As indicated earlier, special conditions were attached that required VLAS to coordinate its efforts with LASGL in a manner that would ensure the provision of high quality legal assistance in the Lynchburg area.



LEGAL SERVICES CORPORATION
 1730 N. Lynn Street, Arlington, VA 22205 (703) 235-2109

Thomas Ehrlich
 President
 E. Clinton Samberger, Jr.
 Executive Vice-President

MEMORANDUM

TO: Thomas Ehrlich
 Charles Jones

FROM: Walker T. Thompson

DATE: February 24, 1978

SUBJECT: Recommendations for Fiscal Year 1978 "Expansion of Access, New" Funding - Lynchburg Virginia, Campbell, Appomattox, Amherst Counties, Virginia

INTRODUCTION

In June 1977, the Northern Virginia Regional Office of the Legal Services Corporation received a grant application from the Virginia Legal Aid Society ("VLAS"). The application sought Fiscal Year 1978 "Expansion of Access, New" funding to provide legal services in designated areas in central, southwest, and southside Virginia. Following a review of the application, the Regional Office recommended that funds be awarded to VLAS for the provision of legal services to poor persons in a portion of the areas sought.

On December 19, 1977 a delay in action of the recommendation was granted to permit the Legal Aid Society of Greater Lynchburg ("LASGL") to submit an application for three areas included in the application of VLAS (Campbell County, Appomattox County, and the City of Lynchburg), and Amherst County. On January 31, 1978, LASGL submitted an application for Fiscal Year 1978 "Expansion of Access, New" funds to provide services to those four areas. LASGL does not object to any grant to VLAS for the provision of services to the other areas in the VLAS proposal.

I. SUMMARY OF CURRENT GRANT APPLICATIONS

A. Grant Application of the Virginia Legal Aid Society

1. Jurisdictions. The program will serve the following counties and cities.

ATTACHMENT

BOARD OF DIRECTORS

Reggie C. Crockett
 Bloom, New York
 Marshall J. Dwyer
 Austin, Texas

J. Melville Broughton, Jr.
 Raleigh, North Carolina
 Marjorie W. Cook
 Washington, D.C.

Robert J. Kutak
 Omaha, Nebraska
 Radcliffe Montague
 Santa Ana, California

Reverie O. Origue, Jr.
 New Orleans, Louisiana
 Oliver S. Smith, Jr.
 Laurel, Kansas

Glen C. Stophel
 Chattanooga, Tennessee
 Samuel D. Thurman
 Salt Lake City, Utah

<u>COUNTIES</u>		<u>CITIES</u>
Greensville	Amelia	Danville
Brunswick	Buckingham	Emporia
Sussex	Pittsylvania	Lynchburg
Dinwiddie	Henry	Martinsville
Mecklenburg	Patrick	South Boston
Halifax	Cumberland	
Lunenburg	Charlotte	
Prince Edward	Campbell	
Nottaway	Appomattox	

The total poor population is 107,990 persons. (Data Source: U.S. Bureau of the Census, County and City Data Book, 1972)

2. Narrative Description of Program Operations. The program proposes to provide the full range of legal services permitted under the Legal Services Corporation Act and Regulations. The program plans to have significant educational and preventive law aspects.

The central office is to be in Lynchburg.^{1/} Full-time branch offices will be in Lynchburg, South Boston (or Chase City), Danville, Farmville, and Emporia. Attorneys in these offices will circuit ride to designated areas in all the other counties and cities. The central office will be responsible for centralized purchasing, bookkeeping and other major administrative and fiscal operations of the program. In addition, the central office will house attorneys with substantive expertise in certain areas, central brief and form banks, standardized forms, practice manuals, and memoranda.

In addition to regular office intake, intake will be done by paralegals riding circuit to interview clients in homes or other agencies where an office visit is not practical. Paralegals will also be involved in community education activities. Case assignments will be made by the managing attorney of each branch office. Clients (except in emergencies) will be interviewed by attorneys on an appointment basis. To facilitate communications with clients, and between offices, SCATS telephone lines will be established. Case reports will be made by each staff attorney and paralegal to the managing attorney. The managing attorney will send composite reports to the Director. The Director and the attorneys (substantive experts) in the central office will review all major cases, develop and disseminate resources, forms and brief banks, and other substantive resources for use by the attorneys and the paralegals in the branch offices.

3. Budget and Staff. The amount of Corporation funding available to the proposed service areas is \$529,151. According to the VLAS plan, this figure will cover a staff of at least 17 attorneys (including the Director), a bookkeeper/administrator, at least 5 paralegals, and at least 8 clericals.

^{1/} The VLAS central office and its Lynchburg branch office may, of course, be housed in the same building.

8. Grant Application of the Legal Aid Society of Greater Lynchburg

1. Jurisdiction. The program will serve Campbell, Amherst, and Appomattox Counties, and the City of Lynchburg. The total poor population is 18,708 persons. (Data Source: U.S. Bureau of the Census, County and City Data Book, 1972)

2. Narrative Description of Program Operations. The program's full-time office is to be in Lynchburg. This office will handle the program's fiscal operations, e.g., payroll, purchasing and bookkeeping. Part-time offices will be in Amherst, Campbell (Rustburg), and Appomattox. These offices will be staffed by program personnel, circuit riding.

The paralegal will be responsible for client intake information. Cases will be assigned by the Director. Clients will be seen by appointment, or immediately when necessary. Case reports will be made to the Director by both attorneys and the paralegal.

At least once a month, the Director will meet with the Assistant Director (or Managing Attorney). The Director will periodically visit each part-time office and review caseload reports, case statistics, and financial reports.

3. Budget and Staff. The amount of Corporation funding available for the proposed service areas is \$91,669. This amount of Corporation funding would support a staff of three attorneys (including the Director), one paralegal, and two secretaries.

II. FRAMEWORK FOR RECOMMENDATION

The applications of both the VLAS and LASGL with their supporting documents and correspondence were carefully considered. In addition, the reports of two consultants were reviewed.^{2/} Further, Regional Office staff visited the Lynchburg area of three occasions for discussions with the present staff of LASGL, the present Board of Directors of LASGL, and a host of representatives of community

^{2/} In October, 1977 the Corporation contracted with Henry Woodward and Anita Henry to provide the Corporation with a report on the feasibility of providing legal services to persons within the proposed expansion area of the VLAS proposal. The contractors are the Directors of Corporation funded programs of proven effectiveness in Virginia: Henry Woodward has been Director of the Legal Aid Society of Roanoke Valley, Virginia, since 1973. Anita Henry has been Director of Neighborhood Legal Aid Society, Richmond, Virginia, since 1976, and Deputy Director from 1974 to 1976. Together, the contractors spent more than 232 hours in preparing their reports and spoke to representatives of local bars and community groups and organizations in each of the areas proposed for service by the VLAS.

groups, organizations, and government agencies.^{3/} Moreover, I have received and reviewed correspondence (or copies of correspondence) and resolutions from numerous organizations and persons.

I have reviewed the information from the sources summarized above within the context of the Legal Services Corporation Act of 1974, as amended, and the Legal Services Corporation's "Guidelines for the Selection of Applicants to Serve New Areas".

Among the primary purposes of the Legal Services Corporation Act is the provision of "high quality legal assistance to those who would be otherwise unable to afford adequate legal counsel" (42 USC §2996, Section 1001(2) of the Legal Services Corporation Act of 1974, as amended.) In providing funds to carry out the purposes of the Act, the Corporation shall "insure that grants and contracts are made so as to provide the most economical and effective delivery of legal assistance to persons in both urban and rural areas" (42 USC §2996f, Section 1007 (a)(3) of the Legal Services Corporation Act of 1974, as amended.)

^{3/} The persons contacted include: Charles L. Mangum, Esq., President, Lynchburg NAACP, Board Chairman, Hunton YMCA; Wallace Clair, Director, Lynchburg Area Office on Aging; Janie Dowdy, Project & Research Director, Lynchburg Area Office on Aging; Carrie Mathews, Welfare Recipient, Member of the Virginia Department of Welfare Client Advisory Committee, Board Member, Legal Services Corporation of Virginia; Reverend Haywood Robinson, Director, Lynchburg Community Action Group, Inc.; Linda Davis, Consumer Advocate, Lynchburg Community Action Group, Inc.; Julius Haskins, Director, Lynchburg Manpower Program, Community Action Group, Inc., Vice President, Lynchburg NAACP, Organizer, Lynchburg Opportunities Industrial Council (OIC); Mary Saddler, Executive Director, Central Lynchburg YWCA; M.W. Thornhill, Jr., Member, Lynchburg City Council, President, Lynchburg Voters League; Robert Spencer, Director, Lynchburg Youth Services; Mary Walker Fletcher, Director, Campbell County Senior Citizens Center; Charles Elliott, Virginia Polytechnic Institute Area Extension Agent, Campbell County, Appomattox County, City of Lynchburg; L. Garnell Stamps, Board Member, Lynchburg Community Action Group, Inc., Board Member, Lynchburg NAACP, former host, Lynchburg TV program relating to interests of the community and low-income residents, Member, Lynchburg OIC; Carl B. Hutcherson, Owner/Operator, Hutcherson Funeral Home, Member, Lynchburg NAACP; Tony Anthony, Reporter, Lynchburg News (morning paper) & Lynchburg Daily Advance (evening paper); Pauline Maleoney, President, Southeastern Educators Association; Cilla Brown, Director, Campbell County Department of Social Services; Judy Gilchrist, Social Worker, Campbell County; Barry Donald Jones, Social Worker, Campbell County; Shirley Moore, Director, Lynchburg Information and Referral Service; J. Gorman Rosenberger, Jr., General Counsel, Legal Aid Society of Greater Lynchburg; Marion T. Baker, Attorney, Legal Aid Society of Greater Lynchburg; Robert D. Morrison, Attorney, Legal Aid Society of Greater Lynchburg; Mary M. Riley, Staff Assistant, Legal Aid Society of Greater Lynchburg; David T. Petty, Jr., Chairperson, Board of Directors, Legal Aid Society of Greater Lynchburg; Members, Board of Directors, Legal Aid Society of Greater Lynchburg.

The "Guidelines for the Selection of Applicants to Serve New Areas" provide a framework to ensure that the critical need for expansion of legal services is met as swiftly and efficiently as possible. The "Guidelines" provide for the recognition of

the trend toward consolidation of smaller programs in order to pass on the benefits of larger administrative units, when feasible, for more efficient service, and thus will attempt to fund through such large administrative units.

The "Guidelines" provide further that

Within any given state, priority will be given to funding through administrative units that will provide services to the largest number of eligible clients (including those in rural areas) in the most efficient manner. The willingness of the applicants to become a part of such administrative units will be an important factor in choices made by the LSC.

III. REASONS FOR RECOMMENDATIONS

A. Specialization, Expertise, Support for Practice of Law Activities, Quality Control Over Legal Work

The legal problems of the poor are almost as varied as the population at large.^{4/} The areas are complex and beyond the mastery of any individual. If shallow representation is to be minimized, attorneys acting on behalf of poor clients must be able to draw on expertise and support as they perform traditional "law-yeering" roles such as advising a client concerning his duties, rights, and remedies in a particular situation; representing him in dealing with third parties; acting on his behalf in formal proceedings. Minimally competent representation -- even in "routine" matters -- frequently requires legal research, preparation of memoranda, correspondence and other documents, and keeping abreast of new administrative, judicial, and legislative developments in the area of the client's problem. On complex legal matters, or even simple ones novel to an attorney's experience, ready access to expert verbal responses to limited inquiries, model pleadings, brief banks, and comprehensive manuals are important to the effective representation of clients.

^{4/} The Corporation's Budget Request for Fiscal Year 1978 set forth an inexhaustive list of 42 kinds of problems legal services attorneys deal with. They range alphabetically from adoption to zoning and in addition to complex traditional "poverty law areas", such as consumer protection and public welfare benefits, include increasingly complex areas such as the rights of the handicapped, pensions, mental health law, and utilities.

The application of the LASGL requests funds to provide legal services to three counties and one city. If the application were granted, the amount of the grant for these areas would total \$91,669.20.^{5/} Corporation funding would support, at most, three attorneys (including the Director) to cover an area with, according to the 1970 Census, 18,708 eligible clients. According to the application of LASGL, the program would; (1) provide the full range of legal services permitted under the Legal Services Corporation Act and Regulations to all eligible people within the geographic area served; (2) represent eligible groups and organizations; (3) operate the full-time office in Lynchburg and three part-time offices, in Campbell County, Amherst County, and Appomattox County. The likely demand for service on a 3-attorney staff covering a spread-out geographical area with more than 18,000 poor persons would inevitably compound pressures toward discontinuity, and perfunctory representation. Under the heavy demand of eligible clients, program attorneys can be so occupied with opening new cases, as well as service on existing files, that little time is left for serious research, investigation, or complex litigation.

To fund the LASGL - however assiduous and professionally earnest its individual staff members may be - would confront the program and its clients with major hurdles in developing and utilizing administrative and practice of law resources minimally essential to the competent representation of clients in many matters and promote incomplete, routine delivery of legal services.

^{5/} It is relevant that while the past performance of LASGL has been quantitatively admirable, its limited financial resources and other factors have prohibited its present 3-attorney staff^{6/} (two full-time attorneys; one volunteer attorney) from avoiding patterns of practice which sacrifice some meritorious claims and defenses of eligible clients. In its Yearly Report for the period ended July 7, 1976, LASGL reported that from 1372 applications for service (of which a total of 851 applicants were found eligible), 253 cases required "involvement" before courts or administrative agencies. According to the Report, "the majority of those cases were in the area of family law -- custody cases, visitation, support, adoption, divorce, etc." (p.4) The Report continues:

^{5/} The existing budget for LASGL of \$38,995, from city and county government sources, runs from July 1, 1977 through June 30, 1978. We have no basis on which to project the continuation or termination of this funding.

^{6/} While the application of LASGL does not state that existing staff would be continued in their present capacities with new funding, as a practical matter, the receipt of Corporation funding by the corporate LASGL would pose its Board of Directors with the decision to continue to employ some or all of present staff or to discharge some or all of present staff.

"It is good to report that the majority of our cases during the last twelve months were settled or are being settled without having to resort to court proceedings. Although the number of cases handled have increased over the last year, we have been able to proceed at a reasonable pace in disposing of and closing them. It is also noteworthy that it has only been necessary for us to appear in court a few times for such matters as consumer disputes, landlord-tenant problems, debt cases, or contract disputes. The great majority of these matters have all been settled out of court."

In its report for the nine-month period ended on March 31, 1977, the majority of cases were again in the area of family law with a relatively small percentage of other matters necessitating involvement with a judicial or administrative body.^{7/} Given such patterns of past practice, it is all the more essential that LASGL have access to strong, reliable practice of law support resources.

By comparison, the VLAS proposes an organizational structure with a capacity for providing expertise and support for its offices' practice of law activities. It is undeniable that in many aspects of the legal profession, including legal services, specialized work is predictably more competent. The VLAS proposes a large program with 17 attorneys under one administration. Funding it would enhance opportunities for specialization at the branch office levels, as well as at the central office level. An elderly client with an SSI problem, represented by an attorney in one office could benefit, for example, from the experience of another lawyer in another branch office (or the main office) who has had experience in the area.^{8/}

^{7/} During the nine-month period the report indicates that the program received 892 applicants for service, of which 471 were eligible for service. If family law and change of name proceedings are eliminated from consideration, program attorneys were involved in 41 matters before courts or administrative agencies.

^{8/} While lawyers in separate programs do of course communicate with lawyers in other programs, such communications are dependent on the establishment and maintenance of informal ties. In order to establish such ties, the LASGL would have to reverse a five year tradition of isolation. LASGL has not participated in any of the training sessions or other activities of the Virginia Legal Aid Association, the umbrella organization of all legal aid societies - Corporation funded ones and others - in Virginia. One of the consultant-reports (see footnote, *supra*) notes that for at least two years the LASGL "has had little contact with other legal aids, in VLAA meetings, or otherwise", and refers to the LASGL's "isolationist history". The January 25, 1978 letter of the Virginia State Bar, submitted to the Regional Office in response to statutory notification requirements, indicates that LASGL has had no real contact with the State Bar or the Legal Services Corporation of Virginia, the organization which coordinates legal aid activities in the state. While we are not aware of the reasons for such isolation, we must be alert to the difficulties inherent in reversing such a tradition, in an emergent attempt to participate in the mainstream of legal services.

The VLAS proposes in its plan to locate its central office, as well as a 3-attorney branch office, in Lynchburg. The central office would be the administrative and legal heart of the program, connected to the other offices by SCATS telephone lines. It would be staffed by clericals, an administrator/bookkeeper, a Deputy Director, and the Director. (Given staff size and flexibility, VLAS indicates, in its plan, that it may be able to provide additional attorney support staff in its central office.) The Deputy Director would coordinate and supervise the program's litigation and training activities. The central office would contain the central brief and form banks. The central office staff would prepare and collect pleadings, forms, memoranda, and practice manuals, and provide them to all of the branch offices. Importantly, with the centralization of administrative responsibilities in the central office, staff in the branch offices would be able to devote a greater percentage of their time to specialized subject areas, and generally, to the legal problems of their clients.

In short, the smaller program proposed by the LASGL simply would not be able to provide the range of resources or the flexibility that the larger program proposed by the VLAS would be able to provide, even with regard to the areas served by any office located in Lynchburg.

B. Coordination and Management of Administrative Activities

The efficiency with which a program's activities are coordinated has a direct bearing on its capacity to deliver quality legal services. Administrative functions which are basic and indispensable to the effective management of a legal services program include bookkeeping, budgeting, purchasing, fund-raising, personnel management, preparation of office manuals, salary administration, recordkeeping, office administration, training, staff scheduling, employee performance evaluations, preparation of grant applications, maintenance of case statistics, and recruitment. In addition to those basic administrative functions, Corporation funding mandates compliance with a complex scheme of administrative and reporting requirements.^{9/} Moreover, as recipients of Corporation

^{9/} For example, Corporation funded programs must: (1) prepare and implement a policy for procedure and review of appeals on behalf of clients (45 CFR §1605); (2) establish a procedure for the referral of fee generating cases (45 CFR §1609); (3) establish a maximum annual income client eligibility level, prepare guidelines for determining eligibility, and adopt a procedure for obtaining eligibility information (45 CFR §1611); (4) establish procedures for determining employee compliance with the Legal Services Corporation restricted activities regulation (45 CFR §1612); (5) adopt policies for the provision of legal assistance to juveniles (45 CFR §1614); (6) adopt employment qualifications, procedures and policies that meet the requirements of applicable laws prohibiting discrimination (45 CFR §1616); (7) prepare and enforce policies relating to class action litigation (45 CFR §1617); (8) establish procedures for determining if an employee has violated the Act (45 CFR §1618); (9) adopt a disclosure of information policy (45 CFR §1619); (10) adopt procedures for establishing priorities in the allocation of resources (45 CFR §1620); (11) establish client grievance procedures (45 CFR

funds, programs must insure fiscal integrity by the detailed documentation of expenditures, and the preparation and submission of quarterly financial reports. An annual audit of the program must also be performed as a necessary element in ensuring compliance with generally accepted accounting principles (GAAP) and maintaining an acceptable standard of public accountability. The performance of these and other functions requires both an expenditure of time and need for administrative expertise. Programs lacking specialized or full-time administrative staff may often find it difficult to fulfill these responsibilities efficiently.^{10/}

The LASGL's application proposes that the administration and management of the program be the responsibility of the Director. While the application does not address the question of whether the Director will represent clients while performing requisite administrative duties, experience suggests that a Director would have little time left for the maintenance of a caseload, supervision of the practice of law activities of two attorneys, and the preparation, collection, and review of exemplary pleadings, forms, briefs, and other practice of law resources.

By comparison, the provision of legal services through the VLAS would permit placement of the responsibilities listed above in people who could spend full-time performing such tasks. Under the VLAS proposal, the responsibilities would be assumed by a separate administrative component including the Director, the Deputy Director, a bookkeeper, and support staff.

Among the important consequences of the assumption of such duties by these persons are; (1) the ability of the administrative staff to concentrate on and develop expertise with regard to the management of the program; (2) the capacity to exploit the inherent advantages of scale and realize cost economies in areas such as bulk purchasing of supplies, fringe benefit plans, and computerized payroll and data analyses; (3) a substantial reduction in the time spent by staff attorneys on administrative functions, thereby enabling them to concentrate their efforts on the practice of law activities.

9 continued/
 §1621); (12) conduct a wage comparability study and prepare a wage and salary administration plan (Recipient Employee Salary Instructions); (13) file a refunding application at least 120 days before the grant expiration date (45 CFR §1606); (14) submit an equal employment opportunity statement within 45 days of the grant to the Corporation (Grant Assurance #5); (15) perform other requirements as directed by the Corporation (Grant Assurance #1).

^{10/} The LASGL, for example, in order to comply with GAAP and LSC Audit Guide requirements, would need to make significant changes in their accounting system, in addition to having annual audits performed, which in the past have never been done.

C. Recruitment: Training: Stable Work Environment

A program's capacity to recruit and retain experienced staff are related. Professional and career aspects of legal services practice that are incentives for staff to remain in legal services are similar to those that make such practice attractive to new candidates. Programs should be sufficiently funded so that means are provided for making the practice of law and legal services interesting, varied, and rewarding for new, as well as senior, staff members.

Prominent areas for improving opportunities within legal services are related to the salary structure, the availability of career options, and the provisions for variety in legal practice. Therefore, if new expansion programs provide little possibility for personal and professional growth, there is less chance to promote quality legal services work.

The Corporation's turnover study (Bamberger and Sard, "Analysis of Turnover Problem and Initial Proposals for Action", Legal Services Corporation: March 2, 1977) also identified "burnout" as one of the causes of excessive turnover among experienced legal services attorneys. Excessive staff attorney caseloads undoubtedly contribute to this problem. Excessive caseloads prevent people from doing thorough and therefore emotionally and intellectually satisfying work, prevent self-teaching, and lead to frustration and boredom due to lack of space for creative work. In a small program, without attorney specialization, attorney support, lack of training and supervision, the attorneys are far more likely to have excessive caseloads.

Consequently, programs should be funded so that there is sufficient staff, coupled with caseload controls, so that the pressures of client contact are not overwhelming.

Where programs operate with one very small office, it may well be impossible to provide these staff members with sufficient case control mechanisms and proper supervision and training. One solution is to have a staff sufficiently large to provide a creative interchange of ideas, which may be essential to obtaining and retaining qualified persons.

The size and structure of programs, in terms of numbers and relative experience of attorneys and paralegals, will obviously effect the turnover rate. It is important to structure programs so that they have a capacity to attract and employ senior attorneys to work jointly with inexperienced staff on much of their work. Organization of a program around specialty areas in itself may be a critical means to achieve greater efficiency, promote creative solutions to recurring problems and provide opportunity for professional growth.

Poor program management contributes to turnover. In a smaller program there is more opportunity for poor management. In a 3-attorney program, for example, the program manager, the Director, must carry a caseload in order to provide a minimum level of services to the poor population in the service area. If the Director carries a caseload, his management skills will not be as effective as if he were a full-time manager. Poor management is a key factor in attorney turnover since it contributes to burnout and to the existence of high caseloads.

with their independent detrimental effect. Poor management is, in itself a problem, since good management is essential to infuse a program with the spirit necessary to overcome the inherent strain attendant with serving clients whose incomes are below subsistence levels.

VLAS would have a full-time Director, a centralized recruitment effort, and the opportunity to place applicants in a variety of locations and specialties. On the other hand, LASGL would have a Director with administrative responsibilities, and would have only one full-time office, with limited positions. Consequently, the ability to attract competent staff, particularly women and minorities, would be hampered by the LASGL's small staff and limited placement options.

Further, recruiting would be made easier because of VLAS' greater opportunity for career development. A 3-lawyer program simply cannot afford applicants probable futures of greatly increased responsibilities, professional growth, or career ladders. The proposed administrative structure of the LASGL provides little opportunity for any lawyer in its 3-lawyer program to advance, except to the directorship. Such a numerically limited job opportunity may well influence a lawyer's decision to become an administrator when neither his interest nor talent lies in that area, simply because the directorship is the only job that offers new responsibilities and a higher salary. A larger program, like VLAS, offers a range of jobs that can more effectively satisfy career instincts. For example, VLAS lawyers could take on supervisory or specialized functions with increased responsibilities. VLAS will have at least 5 managing attorney positions, a Deputy Director and Director positions, and at least 10 attorney positions. The LASGL attorney staff will include as a maximum, two staff attorneys and the Director.

The VLAS staff structure provides greater opportunities for professional advancement and career development for all staff members. Clericals, with training, could possibly move from a \$5000 clerk/typist position, to a secretarial position (\$6000 to \$10,000), a bookkeeper position (\$9000 to \$12,000), or even a paralegal position (\$6000 to \$12,000). The program will have at least 8 clerk/typists or secretaries, and at least 5 paralegals. On the other hand, the LASGL will have only 2 clerical positions, and only 1 paralegal position. Comparatively, it is obvious that the opportunities for professional growth will be greater in VLAS.

The VLAS began its recruitment efforts last fall. It has attracted a number of apparently qualified applicants, and hiring decisions await restructuring, input from the affected areas, and the receipt of funds. Several applicants have been interviewed for the Executive Director position, including persons with national reputation in the legal services community, and substantial roots in Virginia.

VLAS would provide a capacity for a more professional and stable work environment for staff. Staff stability, morale, and career advancement opportunities are all key ingredients to high quality client services.

IV. CONCLUSION AND RECOMMENDATION

I have no doubt that pursuant to the Legal Services Corporation Act and the "Guidelines for the Selection of Applicants to Serve New Areas", the VLAS is the appropriate recipient for Fiscal Year 1978 "Expansion of Access, New" funds for the provision of legal services to poor persons in the City of Lynchburg, and the Counties of Campbell and Appomattox. Just as surely, the LASGL cannot be funded consistent with the "Guidelines" or the statutory requirement that the Corporation "insure that grants and contracts are made so as to provide the most economical and effective delivery of legal services to persons in both urban and rural areas".

The application of LASGL has received enormous support from local bar groups, local governments, local government agencies, local government officials, and some of its past clients. At the same time, it has been trenchantly criticized by representatives of minority organizations, community action agencies, manpower services agencies. To immediately fund VLAS for those areas might eliminate any opportunity for the pooling of the resources of both applicants and any opportunity for the lessening of local resentment to the operation of the VLAS. Importantly, the merger of both applicants' resources would provide a mechanism consistent with the Act and "Guidelines" for the provision of legal services to poor persons in the uncovered area of Amherst County.

I therefore recommend that the VLAS be awarded Fiscal Year 1978 "Expansion of Access" funds in the amount of \$529,151 for the City of Lynchburg, and the Counties of Campbell and Appomattox, as well as the other areas VLAS proposes to serve. I also recommend the following special grant conditions:

1. Prior to the expenditure of any funds pursuant to this grant, the recipient will structure its governing body to reasonably reflect the interests and characteristics of the eligible clients in each of the areas served in accordance with the Legal Services Corporation Act of 1974, as amended, and applicable regulations.
2. Within 60 days of the receipt of funds pursuant to this grant, but prior to the expenditure of any funds for the provision of legal services to poor persons in the City of Lynchburg, Campbell County, or Appomattox County, the recipient shall submit to the Legal Services Corporation for approval a report documenting its good faith efforts to effectuate:
 - A. The merger of the LASGL with the VLAS, with a retention of local funding and assurances that such funding will be expended locally;
 - B. The establishment and maintenance of a local advisory board from the City of Lynchburg and Campbell County;
 - C. The retention and use, with respect to the branch office located in the City of Lynchburg, of the name Legal Aid Society of Greater Lynchburg;

- D. The assumption of any rights or claims LASGL may have with regard to the application for "Expansion of Access" funds to provide services to Amherst County by VLAS.
3. Prior to the appointment of any person to the position of Executive Director, the recipient shall secure the approval of the Legal Services Corporation.

The likelihood of any reconciliation between the applicants depends upon the good faith of both applicants, the desires and openness of their boards and staff. It is important that all interested parties discuss, frankly and directly, means of minimizing any resentment and working together toward the delivery of quality legal services.



LEGAL SERVICES CORPORATION

733 Fifteenth Street, N.W., Washington, D. C. 20005 (202) 376-5100

Thomas Ehrlich

President

E. Clinton Rumberger, Jr.

Executive Vice-President

March 30, 1978

Mr. David Petty, Jr.
President
Legal Aid Society of Greater Lynchburg
927 Church Street
Lynchburg, Virginia 24504

Mr. Jack W. Gravely
Chairman, Board of Directors
Virginia Legal Aid Society
P. O. Box 755
Richmond, Virginia 23206

Dear Mr. Petty and Mr. Gravely:

I am writing to report that after much consideration, we have decided to award \$529,151 of Fiscal Year 1978 Expansion of Access funds to the Virginia Legal Aid Society ("VLAS"). These funds will be used to provide legal assistance to eligible poor persons in the following Virginia counties and cities:

<u>Counties</u>		<u>Cities</u>
Greenville	Amelia	Danville
Brunswick	Buckingham	Emporia
Sussex	Pittsylvania	Lynchburg
Dinwiddie	Henry	Martinsville
Mecklenburg	Patrick	South Boston
Halifax	Cumberland	
Lunenburg	Charlotte	
Prince Edward	Campbell	
Nottaway	Appomattox	

Consistent with the allocation of expansion of access funds to provide legal services in other unserved areas of the country, this award represents funding on the basis of \$4.90 for the 107,990 persons determined by the 1970 United States Census to reside in areas of Virginia covered by the award.

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In addition to the grant conditions placed upon all recipients of funds from the Corporation, the grant that is being made to VLAS contains the following special conditions:

1. Prior to spending any grant funds, VLAS must structure its board of directors to include attorneys from the areas to be served and to reflect the interests and characteristics of the eligible client population, in accordance with the Legal Services Corporation Act, as amended, and applicable regulations;

2. Within 60 days of receiving any grant funds, but prior to expending any grant funds for providing legal services to low-income persons in the City of Lynchburg, Campbell County, or Appomattox County, VLAS must submit to the Corporation an acceptable report documenting its good-faith efforts to consolidate its activities in those areas with those of the Legal Aid Society of Greater Lynchburg in a manner that will, while maintaining necessary responsibilities in VLAS:

(a) retain the name of the Legal Aid Society of Greater Lynchburg for the office located in the City of Lynchburg;

(b) establish a local advisory board for the City of Lynchburg, Campbell County, and Appomattox County;

(c) retain staff members of the Legal Aid Society of Greater Lynchburg who meet the professional standards and needs of VLAS; and,

(d) to the extent feasible, retain the good will and local funding developed by the Legal Aid Society of Greater Lynchburg.

3. Prior to the appointment of any person by VLAS to the position of Executive Director, the program must secure the approval of the Corporation.

These conditions are designed to ensure that every effort is made by VLAS to work closely with those involved in the Legal Aid Society of Greater Lynchburg to provide effective legal services to the client population in

the Lynchburg area. I met personally with members of the Board of LASGL and its Executive Director and was impressed by their dedication to legal assistance for the poor. Therefore the decision to require VLAS to seek to consolidate its operations in the Lynchburg area with LASGL is made with the sincere hope that LASGL, its Board of Directors, Executive Director and their colleagues in the private bar will work together with VLAS to ensure the best possible service in that area.

I agree with the Directors of the Legal Aid Society of Greater Lynchburg that it is important to preserve not only the name of that organization but also, to the extent feasible, its staff, its good will, and its local funding. I am confident that VLAS will make a good faith effort to do just that, and I hope those involved with LASGL will work together with them. If those joint efforts occur, I have every reason to believe that they will produce a successful program.

As you know, the process leading to this decision has been lengthy and has involved many groups, associations, and individuals who care deeply about legal services. The Corporation reviewed fully and carefully the applications of the Legal Aid Society of Greater Lynchburg ("LASGL") and VLAS to provide legal services in the areas for which the expansion funds were awarded. At the completion of this process, it became clear that an award of funds to VLAS would be most consistent with the policies developed by the Corporation for the allocation of Fiscal Year 1978 Expansion of Access funds.

Although the Corporation sought \$217 million in its 1978 budget request to the Congress, only \$205 million was appropriated. As a result, the Corporation had to limit its plan to expand legal services into areas where poor persons previously were without access to a legal services program. Nevertheless, \$18,475,165 of the Fiscal Year 1978 appropriation were allocated for this purpose. These funds were divided among the Corporation's nine regions and among the states in each region, in proportion to the number of eligible poor persons living in areas not served by Corporation-funded programs.

In order to assure the most effective and efficient allocation of expansion funds, as required by the Legal Services Corporation Act, the Corporation established the following policies as guidelines for the award of these funds:

1. Priority was to be given to those states and areas within states where the largest number of poor persons resided in areas without access to legal services programs.
2. Within any given state, priority was to be given to funding through administrative units that would provide services to the largest number of eligible clients (including those in rural areas) in the most efficient manner. The willingness of applicants to become a part of such administrative units would be an important factor in funding new programs.
3. Where the provision of service in new areas could be accomplished as well by expanding geographic coverage of existing LSC programs of proven effectiveness, these existing LSC programs were to be given priority.
4. The grantee would be required to limit its geographical area so that it could provide services at the level of \$4.90 per poor person residing in the service area.
5. Outside funds available to an applicant were to be considered by the Corporation in defining the area to be served by expansion funds; appropriate adjustments were to be made in the level of funding where outside funding plus proposed Corporation funding would allow a program to operate at a level in excess of the intermediate level of two attorneys per 10,000 poor persons, defined by the Corporation as "minimum access" to legal services.

The decision of the Corporation to fund VLAS was based on the recommendation of Walker Thompson, the Regional Director of the Corporation with responsibility for Virginia, and Charles Jones, the Director of Field Services for the Corporation. Their recommendation was consistent with the priorities

established to allocate expansion funds. A brief outline of the process that led to their recommendation indicates the serious consideration given to the decision to fund VLAS.

In the spring of 1977, the Regional Office of the Corporation began considering the expansion of legal services in areas of Virginia that were not served by existing Corporation-funded programs. In June 1977 a grant application was received from the newly incorporated VLAS. That application sought funds to provide legal services to designated areas in central, southwest, and southside Virginia, with a proposed headquarters office in Richmond. This application was carefully reviewed by the staff of the Regional Office in consultation with numerous persons interested in legal services in Virginia.

As part of the process of considering the feasibility of the VLAS proposal, the Regional Office contracted with the directors of two legal services programs in Virginia to study the proposal. These experienced individuals conducted an extensive review, including visits to the areas in question, in consultation with many groups and individuals. They prepared a preliminary report in November 1977 and a final report in December 1977. They concluded that, with certain modification, the VLAS proposal was a realistic one.

On December 2, 1977, as required by Section 1007(f) of the Legal Services Corporation Act, the Corporation announced that it was considering a plan to fund VLAS to provide legal services in 23 counties and cities in Virginia. The announcement was published in the Federal Register and sent to the Governor of Virginia and the Virginia State Bar. The announcement set a 30-day period within which interested persons or groups could comment on the VLAS proposal.

On December 19, 1977, LASGL asked the Corporation to extend the 30-day comment period to allow it to comment on the VLAS proposal and possibly to submit its own proposal to provide services in part of the proposed expansion area. The Corporation agreed to consider any comments or proposal submitted by January 31, 1978.

On January 31, 1978, LASGL submitted an application for expansion funds to provide legal assistance to low-income persons in the City of Lynchburg.

and the counties of Campbell, Appomattox, and Amherst. As part of the review of the LASGL proposal, the Regional Director, Walker Thompson, and his assistant, Margaret Poles, visited Lynchburg on several different occasions and met with the Board and staff of Greater Lynchburg. They also consulted with many persons about the operation of that organization.

On February 24, 1978, Mr. Thompson recommended to Charles Jones and me that a program under the auspices of the Virginia Legal Aid Society be funded to serve a low-income population of 107,990 persons in 23 counties and cities of Virginia. His recommendation was made available to VLAS and LASGL, as well as other individuals and officials who had expressed an interest in expanding legal services in the areas that would be served. After reviewing Mr. Thompson's recommendation and considering the comments of LASGL and other interested individuals and groups, the Corporation decided to provide expansion funds to VLAS.

Implicit in the recommendation of Mr. Thompson and in the decision of the Corporation to fund VLAS is the judgment that some unserved areas of Virginia will necessarily have to await additional funding from the Corporation, which we hope will be appropriated in Fiscal Year 1979. Some of the territory originally included in the VLAS proposal was subsequently eliminated to ensure a cohesive and effective plan consistent with the available funding. As a result, the City of Galax and the counties of Grayson and Carroll were dropped from the original plan by the Regional Office on the recommendation of the two outside consultants. After visiting the area, those consultants reported that although legal assistance was needed, the relatively isolated nature of the area would preclude effective legal services through VLAS at this time. And VLAS subsequently requested that the cities of Norton and Bluefield and the counties of Tazewell, Russell, Buchanan, Wise, Scott, Lee and Dickenson also be deleted from its proposal when it became apparent that the funding available was not as large as originally anticipated.

The City of Lynchburg is an important component in the decision to fund VLAS. The original and much larger VLAS proposal indicated a headquarters located in Richmond. When it became apparent that funding would

be limited, however, the headquarters location was changed to Lynchburg. This change in location should be an important factor in helping to ensure that local interests in the Lynchburg area are taken adequately into account in providing service to that area.

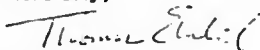
More generally, the size of the VLAS program should help to ensure the provision of a full range of quality civil legal assistance by a competent, well-trained staff with a minimum of administrative overhead. A staff of about 17 attorneys and five paralegals should allow the specialization and interchange that are extremely valuable to efficient handling of the often complex legal problems of the poor. This size should also allow the program to conduct effective ongoing training of the legal staff, and should provide to the staff opportunities for career advancements. Experience has shown that these are important factors in retaining experienced and able staff in most legal services programs.

In addition, VLAS's structure should provide important administrative benefits and economies of scale. The director and the administrator/bookkeeper of the program will concentrate full-time attention on the many administrative duties essential to the operation of a quality legal services program.

In sum, the Corporation's decision to award expansion funds to VLAS was made with one goal in mind -- to provide high quality legal assistance to the low income residents of the area. The original proposal submitted by VLAS in June 1977 has been improved through extensive study, review and consultations with many organizations and individuals throughout the state. The grant fully reflects the Corporation's priorities for the allocation of expansion funds into areas previously not served by Corporation-funded programs.

I am convinced that the cooperative efforts of VLAS and LASGL can result in the best possible legal services program for all of the areas to be served. With all good wishes.

Cordially,



Thomas Ehrlich

Mr. BUTLER. You may proceed as you wish.

Mr. THOMPSON. Attached to that formal statement are my February 24, 1978, recommendations with regard to the Virginia Legal Aid Society and the March 30, 1978, letter of the president of the Corporation announcing the grant.

I would like to thank the subcommittee—especially after having heard the testimony of Mr. Petty and Mr. Rosenberger—for the opportunity to testify.

Mr. Petty indicated using the words “their operation was ignored,” that the Legal Aid Society of Greater Lynchburg was ignored in the funding decision for the Lynchburg area. I find that a hard statement to understand when the Legal Services Corporation granted the Legal Aid Society of Greater Lynchburg an opportunity to file its application, and extended the period for comment with regard to the Virginia Legal Aid Society’s application. Further, members of my staff made several visits to the Lynchburg Legal Aid Society, and met with its board of directors on at least two occasions.

The regional office recommendations, were distributed and the Legal Aid Society was allowed an opportunity to comment on them before the final decision was made. The president of the Corporation considered the comments, and after making the grant to the Virginia Legal Aid Society, included conditions in the grant that were calculated to save the identity of the Legal Aid Society of Greater Lynchburg and its virtues.

Let me advise the committee of the two reasons that the Virginia Legal Aid Society, instead of the Legal Aid Society of Greater Lynchburg, was funded:

First, after our analysis and our onsite visits to the Legal Aid Society of Greater Lynchburg, there was no way that that program could be funded consistent with the statutory mandate that in making grants the Corporation shall insure that recipients provide economical and effective delivery of legal services.

Mr. BUTLER. Would you just make that statement again?

Mr. THOMPSON. That there was no way—

Mr. BUTLER. After that.

Mr. THOMPSON. After our analysis, after our review of both grant applications, after our analysis of relevant information, there was no way consistent with the Legal Services Corporation Act’s mandate, that the Legal Services Corporation insure that grants and contracts are made so as to provide the most economical and effective delivery of legal services, that the Legal Aid Society of Greater Lynchburg could have been funded.

The second reason for the recommendation was that in order to enhance the capability of the Virginia Legal Aid Society to deliver economical and effective legal services to all the other areas of its application, Lynchburg and its surrounding areas were integral and sensible parts to include.

As I indicated to Mr. Rosenberger during our telephone conversations on November 28, 1977, the recommendations were in essence a communication from the regional office, to the office of field services which indicated that we received the application, that it was not absurd on its face and subject to the statutory period to

comment and any alterations or modifications, and we were taking a serious look at it.

At the time of the recommendations, the statutory period for the comment of parties had not begun to run.

Mr. Petty has made much of the fact that the Legal Aid Society of Greater Lynchburg was contacted late. I emphasize that they were contacted by a contactor working with the Legal Services Corporation in Lynchburg personally, before the statutory period for comment with regard to the application of the Virginia Legal Aid Society had begun to run.

Mr. BUTLER. Are you referring to Mr. Henry Woodward?

Mr. THOMPSON. Yes.

Mr. BUTLER. November 23, 1977?

Mr. THOMPSON. The first contact; that is correct.

Mr. BUTLER. That is the first contact from the Legal Services Corporation to the Legal Aid Society of Greater Lynchburg?

Mr. THOMPSON. That was the first direct contact of the Legal Services Corporation with the Legal Aid Society of Greater Lynchburg with respect to the application of the Virginia Legal Aid Society.

Mr. BUTLER. What is the indirect?

Mr. THOMPSON. An indirect contact consisted of regional office participation, in October of 1977, in a meeting of the Virginia Legal Aid Association, a meeting that was on notice to all members of the Virginia Legal Aid Association, of which the Legal Aid Society of Greater Lynchburg, I am advised, is a member.

Mr. BUTLER. Were you present at that meeting?

Mr. THOMPSON. No; a member of my staff was there.

Mr. BUTLER. Did you take notice of the fact that a member of the Legal Aid Society of Greater Lynchburg was not present then?

Mr. THOMPSON. I did not.

Mr. BUTLER. Did your staff take note of that?

Mr. THOMPSON. I think it subsequently came to the attention of my staff that the Legal Aid Society of Greater Lynchburg was not present at that meeting. In fact, we subsequently learned that at that October meeting a representative of every program in the State of Virginia, Corporation funded and non-Corporation funded, with the exception of the Legal Aid Society of Greater Lynchburg was at that meeting. It was, I am advised, a very crowded meeting and so I do not think that at the meeting itself a member of my staff did take notice of Legal Aid Society of Greater Lynchburg's absence.

[Mr. Danielson, acting chairman of the subcommittee, returned to the hearing room.]

Mr. BUTLER. In order, Mr. Chairman, to bring this back, he has given his summary of his statement. He has filed his formal statement. He has addressed himself to specific responses to the earlier testimony of Mr. Petty and Mr. Rosenberger. He has now gotten to the fourth point, the objection, that they felt like they were not contacted timely, and he has now said that the first direct contact with them from his agency was November 23, 1977, but there was a meeting which they did not attend in Richmond in October, at which this issue was discussed.

So now I think that is where he is in his testimony.

Mr. THOMPSON. As I indicated, Henry Woodward provided the first direct contact, person to person, face to face, with the Legal Aid Society of Greater Lynchburg on November 23, before the statutory period for comment had begun to run. His first contact and his public meeting both took place before the statutorily required period for comment began to run.

One of the reasons that Mr. Woodward met with the Legal Aid Society of Greater Lynchburg was to insure that they, among others, were provided with actual notice and an opportunity to comment in the event they had not attended the October meetings of the Virginia Legal Aid Society; in the event they had not read the Virginia Bar newsletters, in the event they had not attended a July meeting of the Virginia Legal Aid Society; in the event they had not been in touch with the Legal Services Corporation of Virginia, a corporation that is set up for the purpose of coordinating both federally funded—

Mr. BUTLER. May I interrupt, Mr. Chairman?

Mr. DANIELSON [presiding]. Yes, surely.

Mr. BUTLER. Do you have telephones in your office?

Mr. THOMPSON. Yes, sir.

Mr. BUTLER. And you made no effort to telephone the Legal Aid Society of Greater Lynchburg, to tell them that you had this proposal under consideration prior to the time that Mr. Woodward contacted them; is that correct?

Mr. THOMPSON. That is correct. I think personal notice is better than telephone notice, sir.

Mr. BUTLER. All right. Did you make any personal notice prior to November 23, 1977?

Mr. THOMPSON. Not prior to November 23 but, again, the notice on November 23; was before the statutory period—

Mr. BUTLER. Mr. Thompson, you cannot reasonably suggest to this committee that you made a real effort to involve the existing Legal Aid Society in Lynchburg in your deliberations at all prior to November 23, 1977, not even to pick up a telephone?

Mr. THOMPSON. I strongly disagree. I think we made a very reasonable effort to involve them; and, as I indicated before, after they were involved, after their objections were set forth, they were allowed an extension of time to file their application and comment.

Mr. BUTLER. Let's follow up on that extension.

As a matter of fact, they called you on the telephone and asked you for an extension and you denied it, and the extension was only granted when I personally called Mr. Ehrlich and asked him to intercede and investigate, and at his instructions you granted that extension and not on your own; is that correct?

Mr. THOMPSON. No, it is not correct, sir.

There is a series of correspondences between me and Gorman Rosenberger. Mr. Gorman Rosenberger in that correspondence corrected my impression of what he was asking for in our prior telephone conversations. A letter from Gorman Rosenberger indicates that he had not intended to suggest any delay on the entirety of the Virginia Legal Aid Society application but a delay only with regard Lynchburg and the surrounding areas.

Mr. BUTLER. And you had some intervening consideration with Mr. Ehrlich?

Mr. THOMPSON. I certainly did, yes.

Mr. BUTLER. And that helped you also?

Mr. THOMPSON. Well, I am regional director. I do not make grants. I merely make recommendations for grants. The authority for grantmaking is not mine.

Mr. BUTLER. Excuse me. Go ahead.

Mr. Chairman, would you prefer him completing his statement, or would you like me to examine him further on this particular point?

Mr. DANIELSON. Having missed the opening portion, Mr. Butler, I would just as soon that you continue along the line that you were continuing, so that there be some continuity here, anyway.

Mr. BUTLER. That the witness continue?

Mr. DANIELSON. Let the witness continue on. I think you were interjecting questions. Am I correct?

Mr. BUTLER. I was questioning on a point. I was relying on his letter of December 15, 1977, to Mr. Gorman Rosenberger, in which he says:

I will recommend against any delay in the consideration of the application of the Legal Aid Society of Virginia. To the best of my knowledge, delay will serve no legitimate purpose. It will inevitably postpone the delivery of legal services in areas which have in excess of 100,000 eligible clients.

Now, based on that letter, that was why I said to you, I assume that when you said you would recommend against it, that you were denying it, and it was following awareness of that, when that was called to my attention, when I called Mr. Ehrlich and he interceded that you granted an extension. Is that a fair statement?

Mr. THOMPSON. No, sir. The part of that letter that indicates that I thought would result in a delay to 107,000 people indicated that I thought the request was to delay any action with regard to the Virginia Legal Aid Society. Again, correspondence between Mr. Rosenberger and myself clarified that.

Mr. BUTLER. Subsequent correspondence?

Mr. THOMPSON. What is the date of that letter?

Mr. BUTLER. December 15, 1977.

Mr. THOMPSON. I think that is right. I am not sure of the precise dates.

Mr. BUTLER. All right.

Mr. THOMPSON. I would like to repeat for members of the committee that there were two reasons for recommending making the grant to the Virginia Legal Aid Society and not to the Legal Aid Society of Greater Lynchburg: I would like to reiterate for members of the—

Mr. DANIELSON. Would you pull the microphone a little closer? It is awfully difficult to hear.

Mr. THOMPSON. I would like to reiterate for members of the committee that there were on the merits two reasons that the Legal Aid Society of Greater Lynchburg was not funded and the Virginia Legal Society was funded for the areas of the Lynchburg, Appomattox and Campbell County.

The first of those reasons, as I indicated before, is that the Legal Aid Society of Greater Lynchburg, after our analysis, after our review of the applications, could not have been funded consistently with the Legal Services Corporation statutory mandate to insure

that legal services are delivered economically and effectively to poor persons in urban and rural areas.

The second reason was that the Lynchburg area was an integral part of the Virginia Legal Aid Society's entire proposed area and that without Lynchburg, the largest city in the area, its proximity to libraries, including its excellent Federal court library, the other areas of the Virginia Legal Aid Society would have suffered.

Those were the two reasons on the merits that I recommended against the funding of the Legal Aid Society of Greater Lynchburg for the areas for which its application was made.

Mr. BUTLER. On that point, did you have any recommendation from Mr. Henry Woodward, your consultant, with reference to the significance of having Lynchburg as your base, or Danville as your base, for this—

Mr. THOMPSON. Yes. We did have oral, telephone conversations with Mr. Henry Woodward, where he had indicated that there was a close consideration between two of the cities in the areas. Those two cities were Danville and Lynchburg.

Mr. BUTLER. Didn't he say something about Danville being—in his recommendation he says "My understanding is that Richmond has been eliminated as a location for the administrative office and the choice now lies between Danville and Lynchburg. I would recommend Danville."

There are five of them in your consultant's report. You overruled that when you said Lynchburg was essential.

Mr. THOMPSON. Indeed I did.

Mr. BUTLER. When you tell us there are two reasons why you couldn't fund the greater Lynchburg proposal separately, one of the reasons is because Lynchburg was an integral part of this thing and you were overruling the recommendation of your own consultant.

Mr. THOMPSON. I was overruling the recommendation of our own consultant.

Mr. BUTLER. Who did you consult when you overruled?

Mr. THOMPSON. I consulted the facts, Congressman. I consulted the fact that Lynchburg is the largest city in the area.

Mr. BUTLER. How much larger than Danville?

Mr. THOMPSON. About 7,000 people. Lynchburg is also located much more closely to the law schools of the University of Virginia and Washington and Lee. It has a Federal court with an excellent library.

Mr. BUTLER. How many Federal courts do they have at Danville?

Mr. THOMPSON. One.

Mr. BUTLER. How many do they have at Lynchburg?

Mr. THOMPSON. They have one in Lynchburg, but I was considering its proximity to the Federal courts library in Lynchburg—

Mr. BUTLER. Are there Federal court library facilities in Danville?

Mr. THOMPSON. Of course there are, but there are also Federal library facilities in Lynchburg.

Mr. BUTLER. When you finally got around to the point where you were forced to consider two separate proposals, you no longer became an objective analyzer, but you became an advocate and you

are an advocate today and that is not the way you should have been proceeding.

Mr. THOMPSON. Let me set out some of the specifics: The Legal Aid Society of Greater Lynchburg's own records indicate that during the 21-month period ending March 31, 1977, that the program attorneys handled no consumer credit actions, no landlord/tenant actions and one welfare hearing.

Let me quote from their report.

The majority of our cases during the last twelve months were settled or are being settled without going through court proceedings. Although the number of cases have increased over the last year, we have been able to proceed at a reasonable pace in disposing of and closing them. It is also noteworthy it has only been necessary for us to appear in court a few times for such matters as consumer disputes, landlord/tenant problems, debt cases or contract disputes.

Let me add that the application of the Legal Aid Society of Greater Lynchburg indicated that with three attorneys the maximum number of attorneys available with Legal Services Corporation funds, the program would operate a full time office in the city of Lynchburg, three part-time offices, handle the entire range of legal services for poor people in the areas, and represent groups.

I was a bit skeptical and I felt this program could not be funded consistent with the statutory mandate to provide decent legal services.

I have nothing further.

Mr. DANIELSON. We have with us fortunately at this time our chairman, Mr. Kastenmeier.

Mr. KASTENMEIER. I thank the members for staying with us in the consideration of this particular matter, and I thank Mr. Danielson for chairing the meeting.

I believe the reason this particular case is important is because decisions of this sort are being made throughout the United States, as new grants are given, and programs are either expanded or, in some cases, not funded because of competing programs which are more aggressive and which by criteria established have a more reasonable opportunity of reaching more people effectively.

It was the purpose of the last extension of legal services corporation authorization to envisage a more aggressive, a wider program, responding to the needs of more people, granting more people access.

I concede I have not heard all of the remarks made in connection with this particular case. I suspect that the major point at issue ultimately will be whether sufficient notice, sufficient opportunity for competing programs has been given so that even if an adverse decision is made to an existing program or to another applicant, that there is confidence in the decision based on an opportunity to present that application and be consulted.

I think tactics are probably more at issue than the ultimate judgment which certainly the witness, Mr. Thompson, has suggested to us explaining why the decision was made as it was.

Whether that is a reason or not, nonetheless I think that may be less an issue than whether other applicants are reasonably given an opportunity. As I say, there are other cases similar to this throughout the country.

Mr. Thompson, I think the only question I have is this: Do you think there is any better way that various regional directors and components of Legal Services Corporation can proceed with reference to taking applicants, so the disappointment in the communities is not too great in connection with the preexisting programs?

Mr. THOMPSON. I think there are indeed practices that should be followed.

Mr. KASTENMEIER. I should have said non-Legal Services Corporation funded programs, although I suppose both classes are possible. You could have an old Legal Services Corporation funded program which is merged with another program as well.

Mr. THOMPSON. I think there are a number of non-Corporation-funded programs that are doing excellent jobs. They have been operating in their communities; they have gained the experience of dealing with the problems of poor people in their particular areas. By and large for the most part they are funded at levels substantially less than legal services funded programs.

As a matter of practice, I think the regional offices explore those smaller programs when a grant of corporation funds is contemplated for an area.

There are usually discussions with the person in the non-Corporation-funded programs with regard to consolidation of the strength of the generally underfunded program with the Corporation-funded program, taking advantage of the personnel's experience in delivering legal services to that specific community.

That process tends to work reasonably well and again I can only speak for the Northern Virginia Regional Office, but it is a practice that I think tends to work reasonably well as a whole.

Mr. KASTENMEIER. I think that is all the questions I have.

Mr. DANIELSON. Mr. Railsback.

Mr. RAILSBACK. May I refer to your report that is at the back of your statement? It is page 12, which is the conclusion and recommendation.

I would like to refer to the second paragraph which says that the application of LASGL has received enormous support from local bar groups, local governments and local government agencies, local government officials, and some of its past clients. "At the same time, it has been trenchantly criticized by representatives of minority organizations, community action agencies, and manpower services agencies."

What I would like to ask is—and that same theme kind of ran through your statement—and it is very important, very significant—I wonder if the committee could have access to the critical comments by some of the social service agencies?

Do we have that anywhere? In other words, where some of the people you contacted were critical, we want to have that. That is important.

Mr. THOMPSON. We have that. It is obviously an internal document of the Legal Services Corporation.

Mr. RAILSBACK. Let me say about that, if this House Judiciary Subcommittee cannot get access to it and you make a recommendation based on it, you are going to have a real thunderstorm of criticism of the Legal Services Corporation itself.

Mr. THOMPSON. I am sorry. I did not mean to suggest that.

What I meant to suggest was that it was internal and there were the names of the people who made extremely critical comments with respect to the Legal Aid Society of Greater Lynchburg.

Mr. RAILSBACK. We want to have that. I will give you my word not to turn it over to anybody, but I am very curious—if we are going to make any kind of an intelligent judgment, we have to have something specific. I am sure we could get the comments from the bar, from the local governments that we are supportive of the existing program.

Mr. KASTENMEIER. Would the gentleman from Illinois yield?

Mr. RAILSBACK. Yes.

Mr. KASTENMEIER. I assume the gentleman from Illinois is very sincere about this request. I see no reason why it cannot be made in the name of the committee, but I suggest Mr. Thompson may want to consult with the Legal Services Corporation as to the propriety of complying with that request before acceding to it at this time.

Mr. THOMPSON. I would really appreciate that opportunity.

Mr. RAILSBACK. Mr. Chairman, respectfully, with the trend toward openness and with all of the freedom of information availability and so forth, I cannot imagine that we could not have access to the field interviews—if we are going to make any kind of intelligent judgment—

Mr. KASTENMEIER. I suspect you are correct, but I think ordinary discretion and caution suggest the witness ought to at least consult with his own corporation.

Mr. RAILSBACK. I will make the request of Mr. Ehrlich and Mr. Crampton. I am willing to do that.

Let me tell you why I am concerned. One of the reasons why I have been so supportive of Legal Services is that there has been in the past a major effort, fairly successful, I think, particularly recently, to involve and obtain the support of local-elected officials, and the support of local bar organizations—because I think if you are going to have Legal Aid, and you don't have the support of the legal community of your particular area, unless there is some real good reason I think that your legal services program is going to be in big, big trouble. So what I am saying is, what you are here today saying is, given the events that occurred, you have opted in this case to go the other direction.

You have opted to go with some of the critical comments made by social service agencies and so forth and you have actually taken a different position than that recommended by the local bar. I am just saying I think you are going to have big, big trouble if we don't get that smoothed over.

Mr. THOMPSON. The first time I ever talked to a representative of the Legal Aid Society of Greater Lynchburg, I encouraged them to submit any input, any comments, anything with regard to the Virginia Legal Aid Society's application.

Mr. KASTENMEIER. When was that?

Mr. THOMPSON. My first contact was on November 28.

Mr. RAILSBACK. So you asked them to make suggestions to you?

Mr. THOMPSON. I asked them to submit any kind of suggestions

they had with regard to the Virginia Legal Aid Society application.

I also advised Gorman Rosenberger that, as I have indicated earlier today, local programs, non-Corporation funded programs exist other places, other than in Virginia, and that generally Corporation-funded programs and nonfunded programs work together to consolidate on behalf of the poor in the communities they serve.

We were constantly alert to the possible loss of local funding and in my conversations, and in grant conditions we did everything I can imagine doing to encourage discussions and cooperation between the Virginia Legal Aid Society on the one hand and the Legal Aid Society of Greater Lynchburg on the other.

Mr. RAILSBACK. Your contact was November 28. That is pretty late in the ballgame and I am wondering, had there been a decision already made?

Mr. THOMPSON. No, sir.

Mr. RAILSBACK. No recommendation?

Mr. THOMPSON. There has been a recommendation made but the recommendation, as I indicated earlier, was made to the Director of Field Services. It served the primary purpose of indicating that we have gotten an application that is not absurd on its face; that seemingly makes sense and we were considering it for funding. That was before the statutory comment period.

Mr. RAILSBACK. I missed the earlier witness who preceded you and I will go back and look at his testimony, but I just want to express to you, when I read this in your report and your conclusions and your recommendations, that the LASGL, which is the Lynchburg existing Legal Aid, has received enormous support from local bar groups, local government, local government agencies, local government officials, and some of its past clients, I am troubled with what you are getting into if you don't have their cooperation, which it is hoped that you would have, and I think it is very important for us to see what extraordinary circumstances motivated you to recommend the other way.

I am making a request that we have the critical comments of some of the people who said this outfit was not doing a good job. I think it is very important for us to know what that criticism amounted to and not just have it generally stated by you in your statement.

We want to see some of this. I personally want to see what are some of the criticisms. You might be justified.

That is all I have, Mr. Chairman.

Mr. DANIELSON. Mr. Butler, do you have further questions?

Mr. BUTLER. If I may, Mr. Chairman.

Mr. DANIELSON. Go right ahead.

Mr. BUTLER. Along the lines of the questions of the chairman of the committee, I have a request of Congressman Don Pease of Ohio who received a letter from a lady who is the director of the Erie County Legal Aid, and since Ohio is in your region, I will read from the letter.

In northwest Ohio, Legal Services Corporation recently funded the Advocates for Basic Legal Equality, a law reform group out of Toledo to expand and provide legal services to ten counties, including Erie County, which has had a legal service program which serves at least 650 primary recipients per year.

The fact that Erie County objected to the application was not given any weight or even any consideration.

The bar presidents wrote to the corporation and received no reply whatsoever.

I just want to emphasize first that the complaint we have in Lynchburg does not seem to be a unique one and, in the second place, I would like to know what is your response, or am I catching you too off guard?

Mr. THOMPSON. I don't know what letters were written by the bar association and cannot really respond.

Mr. BUTLER. It is correct that this area is in your region?

Mr. THOMPSON. Yes, sir.

Mr. BUTLER. Would you review this letter and give us a statement?

Mr. THOMPSON. I would be happy to.

Mr. BUTLER. I ask that this letter be filed as a part of the record.

Mr. DANIELSON. Without objection, it will be received in the record.

[The information follows:]

ERIE COUNTY LEGAL AID AND PUBLIC DEFENDERS ASSOCIATION,
Sandusky, Ohio, May 22, 1978.

Congressman M. CALDWELL BUTLER,
409 Cannon Office Building,
Washington, D.C.

DEAR CONGRESSMAN BUTLER: The Erie County Legal Aid and Public Defender's Association share your concern about the recent activities of the Legal Services Corporation (LSC). Their policy of only funding regional expansion programs rather than individual county programs deserves not only to be protested but to be fully reviewed and investigated by Congress. County programs which provide legal services to the poor are not only less expensive to fund but are in fact more responsive to the needs of the poor. When a program is regional most of the money for the program is spent in telephones, travel, and word processing equipment not to mention the administrative personnel. This results in less direct legal service to the target population (the poor). Therefore the numbers decrease but so does the quality.

In Northwest Ohio, LSC recently funded the Advocates for Basic Legal Equality (ABLE), a law reform group out of Toledo, to expand and provide legal services to 10 counties including Erie County which has had a legal service program which serves at least 650 primary recipients per year. The fact that Erie County objected to the application was not given any weight or even any common consideration. The bar presidents wrote to the Corporation and received no reply whatsoever. ABLE has received 358,000,000 of which 42,000 is those funds which have been allocated to Erie County. This office has a budget of less than 40,000 and provides much better service than what is contemplated by ABLE. Because Erie County desires to maintain the high quality of legal service by not being taken over by a questionable program we forfeit not only the money but any support from the national program such as training programs for both new and experienced lawyers, the publications by the Legal Services Corporation are free to members but other legal aid programs have to pay. Needless to point out that with this policy of non-support all programs will eventually be run by the corporation.

While the above concerns appear to be power plays, don't ever forget the real loser is the poor. Instead of the client getting an experienced, interested, and competent attorney to call the utility company and have her service restored, she will be the subject of a law suit against the Utility, probably for wrongful death as she was frozen to death during the pendency of the litigation. (The suit now has risen to a class action)

Out in the trenches, so to speak, the poor need a lawyer who is available to put out the brush fires as soon as possible and not to have a problem escalate to a full scale forest fire. This is the reverse of the policy and the philosophy of the Corporation which is the reason for the present priorities of regional funding. The poor has to have a lawyer in their own county who will act as a "mouthpiece" and explain their side If you are poor, where do you get the money for a long distance phone call? the automobile to drive the forty miles to the regional office? or having

the car the money for the gasoline? If you are poor, you wait and you suffer and you loose your rights since your claim was not filed timely. If legal aid is not accessible, it is denied and the disadvantaged are once more exploited by the bureaucrats who are providing a career ladder within the corporation. Congress meanwhile appropriates 285 million dollars and wonders why the legal services are not being delivered to the target population.

The Erie County Board of County Commissioners recognized that the poor need immediate representation and funded out of local funds the program for another year. While Erie county can't really afford it the county commissioners realize that good representation of a poor person can and does remove a person from the welfare rolls and thus restores that individual's self respect.

Should you require any documentation of costs, etc., please don't hesitate to contact me. Government must be more responsive to the needs of the people and the average American should not have to put up with the frustration that has been encountered by the local counties that have tried to maintain good public service.

Very truly yours,

VERONICA M. DEVER,
Attorney at Law.

SUPPLEMENTAL MATERIALS CONCERNING ERIE COUNTY

1. Thomas Ehrlich, President, Legal Services Corporation, letter dated June 22, 1978, to Representative Robert W. Kastenmeier.

2. R. Michael Frank, Director, Advocates for Basic Legal Equality, letter dated July 17, 1978, to Veronica M. Dever, Director, Erie County Legal Aid and Public Defenders Association.

LEGAL SERVICES CORPORATION,
Washington, D.C., June 22, 1978.

Hon. ROBERT W. KASTENMEIER,
Chairman, House Judiciary Subcommittee on Courts, Civil Liberties and the Administration of Justice, Rayburn House Office Building, Washington, D.C.

DEAR MR. CHAIRMAN: This letter concerns a letter from Ms. Veronica Dever, the Director of the Erie County Legal Aid and Public Defender Association of Sandusky, Ohio, to Congressman Butler, dated May 22, 1978. A letter of the same date from Congressman Pease (Ms. Dever's Representative) to Congressman Butler requests that her letter be read into the record of your Subcommittee's May 22, 1978, oversight hearing. Should Ms. Dever's letter become part of the record, we request that this response also be made part of that record.

Ms. Dever's letter criticizes the Legal Services Corporation for providing funding for Erie County, Ohio, through a 13-county rural program sponsored by Advocates for Basic Legal Equality (ABLE), rather than providing funds directly to the Erie County Legal Aid and Public Defender Association. The Corporation's decision to fund Project ABLE to provide legal services to the 13-county area was made pursuant to guidelines originally promulgated for expansion. Those guidelines were as follows:

1. Priority was to be given to those states and areas within states where the largest number of poor persons resided in areas without access to legal services programs.

2. Within any given state, priority was to be given to funding through administrative units that would provide services to the largest number of eligible clients (including clients in rural areas) in the most efficient manner. The willingness of applicants to become a part of such administrative units would be an important factor in funding new programs.

3. Where the provision of service in new areas could be accomplished as well by expanding geographic coverage of existing LSC programs of proven effectiveness, these existing LSC programs were to be given priority.

4. The grantee would be required to limit its geographical area so that it could provide services at the level of \$4.90 per poor person residing in the service area.

5. Outside funds to an applicant were to be considered by the Corporation in defining the areas to be served by expansion funds; appropriate adjustments were to be made in the level of funding where outside funding plus proposed Corporation funding would allow a program to operate at a level in excess of the intermediate level of two attorneys per 10,000 poor persons, defined by the Corporation as "minimum access" to legal services.

With respect to funding multi-county or regional programs, our experience has shown that such programs can generally provide better quality legal services, improve administrative efficiency, increase sharing of knowledge and resources, im-

prove recruitment efforts, and provide uniform legal services throughout the service area.

Project ABLE began the development of its proposal to fund 13 rural counties in northwestern Ohio in the early part of 1977. On behalf of Project ABLE, Merritt Green, former President of the Ohio State Bar Association, in April 1977, sent a letter to all of the presidents of the local bar associations in the 13 rural counties to be served, including Erie County. The letter invited participation in the planning process for the rural legal services program. On May 24th, John Worcester, a Staff Attorney with Project ABLE, forwarded to George M. Muehlhauser, then President of the Erie County Bar Association, a draft copy of Project ABLE's proposal and invited his comments. The proposal contained an offer to provide an additional staff attorney to the Erie County Legal Aid and Public Defender Association. On June 8, 1977, Veronica Dever, the Director of the Erie County Legal Aid and Public Defender Association, attended a public meeting which Project ABLE had convened at Fremont, Ohio, to discuss the proposal which it planned to submit to the Legal Services Corporation. At that meeting, she submitted a questionnaire in which she indicated there was a need for additional legal services in her county. In late June, 1977, just before the Regional Office's deadline for Fiscal year 1978 expansion applications, Project ABLE submitted its proposal and sent a copy of the proposal to Ms. Dever.

In January 1978, the Legal Services Corporation sent a letter to all of the presidents of local bar associations in the 13 affected rural counties, including the President of the Erie County Bar Association, advising that it was considering the funding of Project ABLE's proposal for rural legal services in northwestern Ohio. In February of 1978, the Regional Office recommended that Project ABLE be funded to provide services in 13 rural counties in northwestern Ohio, including Erie County. In March of 1978, the Legal Services Corporation made a grant to Project ABLE of \$356,342 to provide legal services in the 13 rural counties of northwestern Ohio at the rate of \$7 per poor person. (A copy of the ABLE proposal is enclosed.)

The development of the ABLE grant proposal and the making of the grant stretched over approximately one year. Yet, the only correspondence which the Legal Services Corporation's Regional Office received from, or on behalf of, the Erie County Legal Aid and Public Defender Association was received in early February, 1978, near the very end of the process. Ms. Dever states in her letter, "I have been aware and have been involved with applications submitted by Advocates for Basic Legal Equality (ABLE). On their final application they had omitted both Erie County and Huron County." The letter expresses disappointment that no funds are being provided to Erie County, and, in particular, to Erie County Legal Aid. The premise of this letter, namely, that ABLE was not applying for Erie and Huron Counties, was erroneous. While Ms. Dever had attended a meeting of Ohio legal services project directors and their representatives, at which there was some tentative discussion about Project ABLE withdrawing its application for Erie and Huron Counties, this did not occur. Project ABLE's proposal remained as it had been when a copy was provided to Erie County Legal Aid in the previous June, i.e., the service area contained 13 rural counties in northwest Ohio, including Erie and Huron. The Regional Office requested that Project ABLE advise Ms. Dever that it was continuing to apply for Erie and Huron Counties, and to discuss further with her, her concerns about legal services in those areas. This Project ABLE did.

From the beginning, Project ABLE has anticipated a cooperative relationship with the Erie County Legal Aid and Public Defender Association with regard to the provision of legal services for Erie County. From the beginning, Project ABLE's proposal has included a provision to place an additional attorney in the offices of the Erie County Legal Aid and Public Defender Association, provided this arrangement is acceptable to it. A representative of Project ABLE visited Ms. Dever to discuss legal services for Erie County, in the Spring of 1977, in the early stages of planning Project ABLE's proposal and again on April 11 of this year, shortly after Project ABLE had received its LSC funds. By letter of April 26 of this year, from the Director of Project ABLE to Ms. Dever, Project ABLE reaffirmed its offer to provide an additional attorney to work in the offices of Erie County Legal Aid, provided Erie County Legal Aid maintained its prior level of civil legal services. Ms. Dever has not responded to Mr. Frank's letter.

Despite knowledge that LSC funds were available and that other agencies were seeking them for her area, Ms. Dever has never submitted an application for funding to the Legal Services Corporation. By letter of April 26, 1978, the Legal Services Corporation grantee, Project ABLE, has reaffirmed its long standing offer to provide an attorney for Erie County Legal Aid; Ms. Dever has not yet replied. Indeed, it was not until a few days ago, on June 12, 1978, that Ms. Dever first

requested by telephone a form to apply for LSC funding. It was forwarded the same day.

Finally, let me address the ultimate question of whether Project ABLE as an appropriate grant recipient to provide legal services in the 13-county rural area in northwestern Ohio. Of all the proposals received to provide services in new areas of Ohio, Project ABLE's was clearly the best. The proposal indicated that an extensive effort had been made to inform the affected communities about Project ABLE's intention to submit a proposal and involve interested parties in the planning process. As already indicated, letters were sent to presidents of local bar associations, including Erie County, and other organizations inviting their participation. Public meetings were held in three of the larger cities in the rural area, i.e., Defiance, Findlay, and Fremont. Ms. Dever, herself, attended the meeting held in Fremont. There was extensive publicity in local newspapers concerning these meetings. The ABLE proposal was well conceived, and overall, of very high quality.

This was consistent with the reputation which Project ABLE has developed over the last 9 years for the delivery of superior legal services to its clients. For the 13 counties for which it received funds, ABLE presented the proposal which, in the judgment of the corporation, was most likely to afford in the most economical and effective manner the highest quality legal services to the poor.

The positive assessment by the Corporation of the quality of the work of Project ABLE and its lawyers is not without support. In *Davis v. Watkins*, 384 F. Supp. 1196 (N.D. Ohio 1974) at 1197, Judge Nicholas Walinsky of the Federal District Court in Toledo, discusses the quality of the representation which Project ABLE furnished to the inmates of a state mental institution. This case has become a leading case on the right of inmates of state mental institutions to treatment. Judge Walinsky singles out the work done by ABLE's lawyers for special praise: "... although everyone who participated in this deserves commendation, the court would like particularly to point out the contribution of Advocates for Basic Legal Equality. ... they entered with no hope or promise of compensation and pointedly reemphasized by their ability and diligence the very real benefits such groups can afford the communities in which they operate.

The grant to Project ABLE extends the benefit of the high quality legal work performed by ABLE lawyers to 13 rural counties outside Toledo in northwestern Ohio. We are confident that Project ABLE will provide the poor in northwestern Ohio with representation which accords with the highest standards of the legal profession.

Cordially,

THOMAS EHRLICH.

Enclosure.

ADVOCATES FOR BASIC LEGAL EQUALITY,
July 17, 1978, Toledo Ohio.

VERONICA M. DEVER,
Director, Erie County Legal Aid and Public Defenders Association,
Sandusky, Ohio

DEAR MS. DEVER: On April 26, 1978 and again on June 27, 1978, we wrote to you offering a set of circumstances under which ABLE was willing to provide the Erie County Legal Aid and Public Defenders Association with the services of an additional staff attorney and legal secretary to expand civil legal services in Erie and Huron Counties. In essence, we have offered to provide an additional attorney and legal secretary to work in the offices of Erie County Legal Aid provided that Erie County Legal Aid maintained its prior level of civil legal services.

Some time after receiving my letter of June 27, 1978, you called and indicated that our offer was unacceptable to you. You stated that you did not desire, nor was there any need, for an additional attorney to provide civil legal services in Erie County. You once again suggested that we assume the salary of an existing staff attorney funded pursuant to your Title XX contract with the Erie County Department of Public Welfare. This would, in your words, permit you to return your Title XX money to the County for their use to provide other needed services.

We have permitted this good faith attempt to work through the Erie County Legal Aid and Public Defender Association to delay our entry into Erie County long enough. Since you have made it clear that you are unwilling to accept our offer of an additional attorney and legal secretary, we have no alternative but to make separate plans for the provision of legal services to residents of Erie and Huron Counties.

In essence, our disagreement boils down to the fact that we believe that Legal Services Corporation funds should be used to "supplement" civil legal services already being provided by Erie County Legal Aid, while you believe that those

resources should be used to "supplant" your existing Title XX program. In support of your position, you contend that there is no need for additional civil legal services in your county. In response, I would point out that on June 8, 1977, you attended a public meeting that ABLE convened in Fremont, Ohio to discuss the proposal we planned to submit to the Legal Services Corporation. At that meeting, you submitted a questionnaire in which you indicated there was a need for additional legal services in your County. We share that view—and if we are unable to provide those additional services through your organization, we have no choice but to look elsewhere.

Sincerely yours,

R. MICHAEL FRANK,
Director.

Mr. THOMPSON. We did not begin to consider a new program for Virginia in the spring of 1977. We began to consider a new program for Virginia in November of 1976 when the regional office opened. We consulted all of the program directors in the State of Virginia, corporation-funded and noncorporation-funded. We consulted the chairman of the State Bar Committee on Legal Aid. We consulted the Executive Director of the Legal Services Corporation of Virginia, the agency with responsibility for coordinating legal aid activities within the State and awarding title 20 legal services funds.

Mr. BUTLER. Did you consult the Legal Aid Society of Greater Lynchburg?

Mr. THOMPSON. No, sir.

If I may, I would like to describe again the Virginia Legal Aid Association because I think it is important to your consideration of the process we follow.

The Virginia Legal Aid Association is an association of all legal services programs in the State of Virginia. Again, those federally funded, those State-funded and those in private funds even.

If membership includes all of those programs—the membership may be the program directors of those programs but a member of my staff has been at every single meeting of the Virginia Legal Aid Association. There have been at least three.

The application of the Virginia Legal Aid Society, as well as every other single application in the State of Virginia, was discussed at the last two of those meetings in detail.

Mr. BUTLER. What you are saying is, you feel like when you got involved in that society that you did not have any further obligation to consult anybody else?

Mr. THOMPSON. Not at all. I was suggesting that any legal services program in the state should have been on notice of things as far back as February of 1977. That is when we indicated to every person who had ever expressed any interest of funding of any kind from our regional office by mail of our regional meeting, and of the fact we were considering expansion, indicating that they should stay in touch with us.

Mr. BUTLER. I think in the interest of time I understand what you are saying. What you are saying is, an alert local legal services organization like Lynchburg should have been aware and if they weren't then tough luck?

Mr. THOMPSON. No; I am saying, first, we took steps that were reasonably calculated to notify any program in Virginia of the expansion application of the Virginia Legal Aid Society.

More than that, ultimately personal notice was given to the Legal Aid Society of Greater Lynchburg before the statutory period for comment began to run.

Mr. BUTLER. When did it begin to run?

Mr. THOMPSON. I think it was December 7.

Mr. BUTLER. That is when it was published in the Federal Register.

Mr. THOMPSON. That is right.

Mr. BUTLER. When you notified them November 23, that was the first time they knew it and that was 10 days before the statutory period began to run.

Prior to that though you had made a recommendation, had you not?

Mr. THOMPSON. Yes, but my recommendation is of no legal consequence whatsoever.

Mr. BUTLER. Except that you are the guy, having made that first recommendation, you are the guy who found himself charged with the responsibility to decide between whether you would go forward with that recommendation again or consider a different one. So you have to admit that puts you in a little bit of a prejudging position.

Mr. THOMPSON. We had analyzed the application of the Virginia Legal Aid Society. We had discussed it again at all of these meetings with all of these program directors.

We had, in fact, because of mailings sent out by the Virginia Legal Aid Society itself, received telephone calls from eligible clients in the areas, asking when the program was coming. So we had gone through a long and arduous process in the review of that application.

Mr. BUTLER. In the interests of saving time here, it appears at some time you made a decision not to consult the local community and the local bar in Lynchburg. Now, who made that decision?

Mr. THOMPSON. The earliest that decision possibly could have been made was the date that the grant was signed on March 30, 1978, Congressman. I assure you that we did everything we possibly could do to consult there. There was one public meeting. Members of my staff met with the Legal Aid Society board of directors on at least two occasions.

Mr. BUTLER. After I interceded with Mr. Ehrlich and you got the additional extension, was it not?

Mr. THOMPSON. Again, my recommendation to Mr. Ehrlich was made on about November 28. That was in no sense a final act. My own recommendations contemplated, for example, that the board would have to be restructured; that there would have to be participation from every group in the area.

So I am stressing the point that the recommendation had no legal consequence; it was at best preliminary; it was a communication to the Office of Field Services that "We have gotten an application that seems to make sense. We are looking seriously at it."

Mr. DANIELSON. Mr. Butler, could you yield to me for a minute?

Mr. BUTLER. I yield.

Mr. DANIELSON. You are an employee of Legal Services Corporation, are you not?

Mr. THOMPSON. Yes, sir.

Mr. DANIELSON. You are a Federal Government employee? You are not employed by the Virginia Legal Aid Society?

Mr. THOMPSON. I am not employed by the Virginia Legal Aid Society.

Mr. DANIELSON. Your role then is to assist Mr. Ehrlich and the Director of Legal Services Corporation in discharging their responsibilities?

Mr. THOMPSON. Yes, sir.

Mr. DANIELSON. Are you now, or have you ever been an officer, director, or employee of the Virginia Legal Aid Society?

Mr. THOMPSON. No, sir.

Mr. DANIELSON. When were they incorporated, if you know?

Mr. THOMPSON. They were incorporated in early 1977. I cannot be more specific.

Mr. DANIELSON. When did you first start communicating with them with respect to any part of their operation?

Mr. THOMPSON. I communicated with the sponsors from the beginning of the opening of the regional office.

Mr. DANIELSON. When would that be?

Mr. THOMPSON. That would have been in November 1976.

Mr. DANIELSON. You had no communication with them before that; is that correct?

Mr. THOMPSON. I had had communications with one of the sponsors. One of the sponsors was on a legal services board and he is also a professor of law at William and—

Mr. DANIELSON. When did you have communications with him?

Mr. THOMPSON. In November 1976.

Mr. DANIELSON. It is my understanding then you are stating you had no communication that you are aware of with any of the officers, directors, incorporators or employees of Virginia Legal Aid Society before November 1977?

Mr. THOMPSON. No. In their capacities as incorporated—

Mr. DANIELSON. In any capacity?

Mr. THOMPSON. I had some communication with John Levy, a sponsor of the program.

Mr. DANIELSON. When?

Mr. THOMPSON. John Levy and I in 1971 were cocounsel on a legal services case.

Mr. DANIELSON. That would be back at least 6 years earlier?

Mr. THOMPSON. Yes.

Mr. DANIELSON. Did you know him subsequently during the interval between 1971 and 1977?

Mr. THOMPSON. Yes, sir.

Mr. DANIELSON. Did you communicate with him at any time between 1971 and 1977?

Mr. THOMPSON. Yes, I did.

Mr. DANIELSON. Did you communicate with him earlier than November 1977, but in 1977?

Mr. THOMPSON. I am sorry. November 1976.

Mr. DANIELSON. You told me you communicated in 1977.

Mr. THOMPSON. No. When the regional office opened in 1976.

Mr. DANIELSON. Was that when you commenced communicating about VLAS?

Mr. THOMPSON. We commenced communications about legal services in Virginia.

Mr. DANIELSON. Did you talk with this same gentleman about that at that time?

Mr. THOMPSON. Yes. He was a member then—he was an organizer of the Peninsula Legal Aid Society.

Mr. DANIELSON. You communicated with him then about legal services as early as November 1976?

Mr. THOMPSON. Yes.

Mr. DANIELSON. How about December 1976?

Mr. THOMPSON. Yes.

Mr. DANIELSON. How about January 1977?

Mr. THOMPSON. I just don't recall, sir.

Mr. DANIELSON. I am trying to establish what was the nature of your contact with this gentleman.

Mr. THOMPSON. We had expansion of access activity in 1976 for fiscal year 1977. John Levy was at that time I think on the faculty of William and Mary Law School.

Mr. DANIELSON. Time is going to run out so I have to speed this up. Is he still with VLAS?

Mr. THOMPSON. No; I don't think he is with VLAS. He is still on the faculty of William and Mary Law School.

Mr. DANIELSON. Was he ever an officer or director of VLAS, as far as you know?

Mr. THOMPSON. I think he was a member of the board of directors of VLAS.

Mr. DANIELSON. Do you think he is or was?

Mr. THOMPSON. Both was and is.

Mr. DANIELSON. The amount of funding that you intend to be used in the Lynchburg area is how much?

Mr. THOMPSON. It is roughly \$81,000.

Mr. DANIELSON. The testimony here today is, up to now the local funding has been about \$34,000 more or less. Obviously you can do more with \$70,000, \$80,000, or \$90,000 than you can with \$34,000.

Did you ever make any effort to determine whether Lynchburg organization would be willing to comply with the guidelines of Legal Services Corporation provided they were funded?

Mr. THOMPSON. Yes.

Mr. DANIELSON. Did they tell you they would not?

Mr. THOMPSON. No.

Mr. DANIELSON. Did they tell you they would?

Mr. THOMPSON. They indicated they would, yes, sir.

Mr. DANIELSON. When was that?

Mr. THOMPSON. My own efforts, my personal efforts were made when I met with the Legal Aid—

Mr. DANIELSON. Was that November 28, 1977?

Mr. THOMPSON. No; that was not. The time they indicated to me they would comply with Legal Services Corporation regulations was on or about December 12.

Mr. DANIELSON. And they submitted their application later than that?

Mr. THOMPSON. Yes.

Mr. DANIELSON. If they complied with all of the guidelines of Legal Services Corporation, where would they be lacking? Where would they be amiss in performing under the law?

Mr. THOMPSON. I am certain that the Legal Aid Society of Greater Lynchburg, with the amount of money that would be available from the corporation, could not provide, as they indicated in their application, the full range of legal services to poor people.

Mr. DANIELSON. Even on \$81,000?

Mr. THOMPSON. Yes; even on \$81,000. One, that amount of money would at best support three attorneys. Those attorneys would have the responsibility for operating a full-time office and three part-time offices in surrounding areas.

In addition to the caseload responsibilities, one of those attorneys would have full administrative responsibilities as the Director of the program.

Mr. DANIELSON. Under the plan you have devised, aren't you still having three lawyers in the Lynchburg office?

Mr. THOMPSON. Yes; but the point is, those lawyers will be supported both in administrative activities and in practice of law activities by the central office. The central office will have specialists who are capable.

Mr. DANIELSON. I am going to have to leave here. There is a roll-call vote on, but I would like to say this: I am disturbed and distressed about fundamentally two things here today.

The one that probably shocks me the most, and that is because I practiced law for a long time, was the failure to make any reasonable effort to notify the Lynchburg organization of what was going on and what you were doing.

It isn't enough to have it in the Federal Register. It isn't enough to have an ad in the newspaper.

You see, sir, you are not a private attorney in this situation. You are representing the sovereignty of the United States of America and I feel that when the Government injects itself into an area, geographical or otherwise, they are dutybound to exercise every effort to notify the local people who are being affected.

That means that you can pick up the telephone; the very least you ought to do is pick up the phone and follow it with a letter. You know we still have registered mail, if need be. But we can't just say, "Well, we have complied; we have put it in the Federal Register. We have put an ad in the newspaper. That's it."

That isn't enough. When Uncle Sam gets into an area, either geographically or disciplinary, they have the duty, I think, to bring home the message. I don't think that requirement was met. I am convinced it was not met.

The second thing that bothers me here is, I don't think any affirmative effort was ever made to get the local association in Lynchburg to agree to expand its activities, to take on class actions, to take on discrimination actions, to do the things that we say they didn't do.

Perhaps they did do them but they didn't have much money either.

I will tell you, an affirmative effort should have been made to get them to perform the job as well as Legal Services Corporation thinks they ought to perform that job. But, instead, no. We set up a

brandnew organization. We set it up. I say this because you provide the money, and money in Government is the mother's milk of all activity. Don't forget that.

You could not set up that organization to function if you didn't put some blood in its veins and that is where that money came from.

These are the two things that distress me here and I hope Legal Services Corporation will do a better job in the future or they will have a difficult time on the floor of the House.

Time has run out. We have to adjourn.

I thank you all and the committee stands adjourned until the call of the Chair.

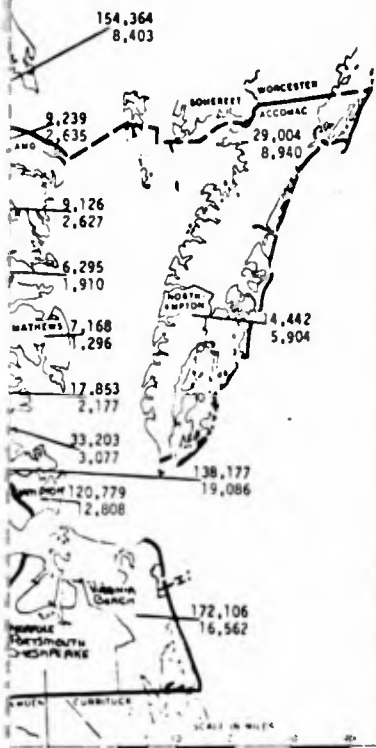
[Whereupon, at 1:20 p.m., the subcommittee was adjourned, to reconvene at the call of the Chair.]

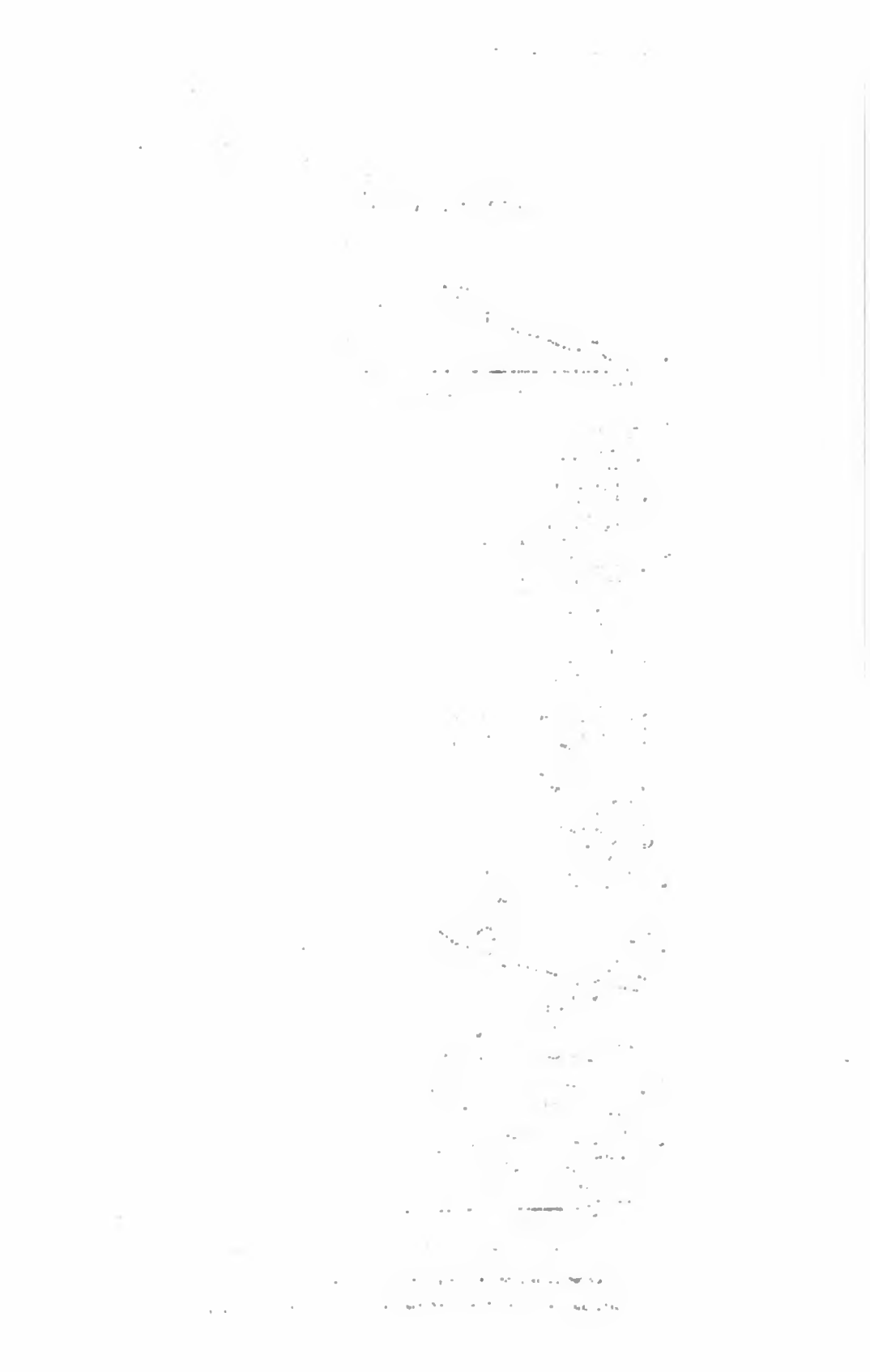
APPENDIXES

APPENDIX 1.—Materials and Correspondence Concerning Expansion to Lynchburg, Va.

1. Map, prepared by Region IV, Legal Services Corporation, based on 1972 Data Book.
2. Outline of the Process that led to the Corporation's Decision to Fund Virginia Legal Aid Society, prepared by Subcommittee Staff.
3. Henry L. Woodward, The Legal Aid Society of Roanoke Valley, letter dated November 28, 1977, to J. Gorman Rosenberger, Jr., Legal Aid Society of Greater Lynchburg.
4. J. Gorman Rosenberger, letter dated November 28, 1977, to David T. Petty, Esq.
5. "Legal Assistance to Be Discussed," The News, Lynchburg, Va., November 29, 1977.
6. J. Gorman Rosenberger, Jr., letter dated November 30, 1977, to Kenneth S. White, Esq.
7. Walker T. Thompson, regional director, Northern Va., Regional Office, Legal Services Corporation, letter dated December 6, 1977, to Gorman Rosenberger, Esq.
8. "Grants and Contracts," Federal Register, vol. 42, No. 235, December 7, 1977. (concerning Virginia)
9. J. Gorman Rosenberger, Jr., letter dated December 7, 1977, to Walker Thompson.
10. Walker T. Thompson, letter dated December 15, 1977, to J. Gorman Rosenberger, Jr.
11. J. Gorman Rosenberger, Jr., letter dated December 16, 1977, to Walker Thompson.
12. J. Gorman Rosenberger, Jr., letter dated December 16, 1977, to James E. Ghee, Esq.
13. J. Gorman Rosenberger, Jr., letter dated December 20, 1977, to Thomas Ehrlich, President, Legal Services Corporation.
14. Walker T. Thompson, letter dated December 22, 1977, to J. Gorman Rosenberger.
15. Walker T. Thompson, letter dated January 16, 1978, to Kenneth S. White, president, Lynchburg Bar Association.
16. Kenneth S. White, letter dated January 18, 1978, to David Petty, Jr.
17. Kenneth S. White, letter and resolution dated January 31, 1978, to Walker T. Thompson.
18. Written comments and recommendations by Legal Aid Society of Greater Lynchburg concerning proposal for Virginia Legal Aid Society, Inc., dated January 31, 1978.
19. J. Gorman Rosenberger, Jr., letter dated February 6, 1978, to Wallace Clair, executive director, Central Virginia Commission on Aging, Inc.
20. J. Gorman Rosenberger, Jr., letter dated February 21, 1978, to Walker T. Thompson.
21. J. Gorman Rosenberger, Jr., letter dated February 23, 1978, to Wallace Clair.
22. Walker T. Thompson, Memorandum dated February 24, 1978, to Thomas Ehrlich. (See Text, p. 81).
23. Thomas Ehrlich, letter dated March 15, 1978, to J. Gorman Rosenberger, Jr.
24. Thomas Ehrlich, letter dated March 15, 1978, to David T. Petty, Jr.
25. Thomas Ehrlich, letter dated March 15, 1978, to James E. Ghee.
26. Thomas Ehrlich, letter dated March 15, 1978, to Kenneth S. White.
27. J. Gorman Rosenberger, Jr., letter and attachment dated March 17, 1978, to Thomas Ehrlich.
28. Thomas Ehrlich, letter dated March 30, 1978, to David Petty. (See Text, p. 94).
29. Thomas Ehrlich, letter dated May 26, 1978, to Representative Robert W. Kastenmeier.
30. J. Gorman Rosenberger, Jr., letter and attachment (response to statements of Messrs. Haskins and Clair) dated May 31, 1978, to Representative M. Caldwell Butler.

31. Stephen S. Walters, Office of General Counsel, Legal Services Corporation, memorandum dated June 5, 1978.
32. David M. Levy, executive director, Virginia Legal Aid Society, letter dated June 26, 1978, to Thomas Ehrlich.
33. Representative M. Caldwell Butler, letter and attachment dated July 20, 1978, to Walker Thompson.
34. Thomas Ehrlich, letter and attachments dated August 28, 1978, to Representative M. Caldwell Butler.

[illegible]



OUTLINE OF THE PROCESS THAT LED TO THE CORPORATION'S DECISION TO FUND VIRGINIA LEGAL AID SOCIETY

1. Spring of 1977: Regional office of the Corporation began considering the expansion of legal services in Virginia.
2. June, 1977: Grant application was received by Corporation from the newly incorporated Virginia Legal Aid Society. This plan intended to serve central, south-west, and southside Virginia with headquarters in Richmond.
3. Regional office contracted with the directors of two legal services programs in Virginia to study the Virginia Legal Aid Society's proposal
 - (a) November, 1977: preliminary report prepared
 - (b) December, 1977: final report issued. Report concluded that, with certain modifications, the Virginia Legal Aid Society proposal was a realistic one.
4. December 2, 1977: The Corporation announced it was considering the Virginia Legal Aid Society plan. Announcement was published in the Federal Register. Commenced the running of a 30-day period within which interested persons could comment.
5. December 19, 1977: Legal Aid Society of Greater Lynchburg asked the Corporation to extend the 30-day period to allow it to comment on the Virginia Legal Aid Society's proposal and possibly submit its own proposal. The Corporation agreed to consider any comments or proposal submitted by January 31, 1978.
6. January 31, 1978: Legal Aid Society of Greater Lynchburg submitted application for expansion funds to provide legal assistance to low-income persons in the City of Lynchburg and counties of Campbell, Appomattox and Amherst.
7. February 24, 1978: Walker Thompson, Regional Director, recommended to Charles Jones and Thomas Ehrlich that the Virginia Legal Aid Society be funded.
8. March 30, 1978: Thomas Ehrlich announced his decision to award \$529,151 to Virginia Legal Aid Society.

GRANT CONDITIONS

1. Virginia Legal Aid Society must structure its board of directors to include attorneys from the areas to be served and reflect the interests and characteristics of the eligible clients population, in accordance with the Corporation Act.
 2. Within 60 days of receiving any grant funds, but prior to expending any grant funds for providing legal services to low-income persons in the City of Lynchburg, Campbell County, or Appomattox County, Virginia Legal Aid Society must submit to the Corporation an acceptable report documenting its good-faith efforts to consolidate its activities in those areas with those of the Legal Aid Society of Greater Lynchburg in a manner that will, while maintaining necessary responsibilities, in Virginia Legal Aid Society:
 - (a) retain the name of the Legal Aid Society of Greater Lynchburg for the office located in the city of Lynchburg;
 - (b) establish a local advisory board for the city of Lynchburg, Campbell County, and Appomattox County;
 - (c) retain staff members of the Legal Aid Society of Greater Lynchburg who meet the professional standards and needs of VLAS; and
 - (d) to the extent feasible, retain the good will and local funding developed by the Legal Aid Society of Greater Lynchburg.
 3. Prior to the appointment of any person by VLAS to the position of executive director, the program must secure the approval of the Corporation.
- The reason for granting the funds to the Virginia Legal Aid Society according to the letter from Mr. Ehrlich announcing the grant: "an award of funds to VLAS would be most consistent with the policies developed by the Corporation for the allocation of fiscal year 1978 Expansion of Access funds".
- The Corporation established the following policies or guidelines for the award of these funds.

1. Priority was to be given to those states and areas within states where the largest number of poor persons resided in areas without access to legal services programs.
2. Within any given State, priority was to be given to funding through administrative units that would provide services to the largest number of eligible clients (including those in rural areas) in the most efficient manner. The willingness of applicants to become a part of such administrative units would be an important factor in funding new programs.
3. Where the provision of service in new areas could be accomplished as well by expanding geographic coverage of existing LSC programs of proven effectiveness, these existing LSC programs were to be given priority.

4. The grantee would be required to limit its geographical area so that it could provide services at the level of \$4.90 per poor person residing in the service area.

5. Outside funds available in to applicant were to be considered by the Corporation in defining the area to be served by expansion funds; appropriate adjustments were to be made in the level of funding where outside funding plus proposed Corporation funding would allow a program to operate at a level in excess of the intermediate level of two attorneys per 10,000 poor persons, defined by the Corporation as "minimum access" to legal services.

The decision of the Corporation to fund VLAS was based on the recommendation of Walker Thompson, the regional director of the Corporation with responsibility for Virginia, and Charles Jones, the Director of Field Services for the Corporation.

THE LEGAL AID SOCIETY OF ROANOKE VALLEY,
Roanoke, Va., November 28, 1977.

J. GORMAN ROSENBERGER, Esq.,
Legal Aid Society of Greater Lynchburg,
Lynchburg, Va.

DEAR GORMAN: I enjoyed the opportunity to have lunch with you on Wednesday, and I appreciate the positive spirit in which you and Bernard Baldwin responded to what was apparently your first news of the forthcoming Legal Services Corporation grant. I should think that both the Regional LSC and the yet-to-be named project director of the Virginia Legal Aid Society might share your interest in some form of coordinated service in the Lynchburg area, to avoid duplication and build upon the substantial acceptance of your program among the bar.

You wanted to get further information from LSC, and I promised you the enclosed act and regulations and the proper address. It is: Walker Thompson, Director, Legal Services Corporation, Region IV, 1730 North Lynn Street, Arlington, Va. 22205
Phone: (703) 235-2109.

I will be back in Lynchburg on Wednesday afternoon, November 30, prior to a 7:30 p.m. meeting at the YWCA at 6th and Monroe.

Please let me know if I can be of further service in explaining the LSC grant.

Best regards,

HENRY L. WOODWARD,
Legal Aid Society.

THE LEGAL AID SOCIETY OF GREATER LYNCHBURG,
Lynchburg, Va., November 28, 1977.

Mr. DAVID T. PETTY, Jr., Esquire,
Lynchburg, Va.

DEAR DAVE: I spoke with Mr. Walker Thompson, Regional Director of the Legal Services Corporation in Arlington, Virginia this afternoon. Mr. Thompson assured me that no final action would be taken on the proposed new legal aid society until someone from his office has met with us to discuss the said proposal. He also indicated to me that there is a 30-day statutory notice period which has to run before any further action can be taken and that the said statutory notice period had not begun to run on this proposal.

Ms. Margaret Poles, a representative from the office of the Legal Services Corporation in Arlington, plans to be in Lynchburg on Monday, December 12, 1977, at 3 p.m. to discuss the proposed new legal aid organization with us. If this date and time do not suit you, please let me know so that a new date can be arranged. I shall be in touch with the members of the Executive Committee to inform them of the subject matter, date and time of the said meeting.

Thanks for talking with me today,

Sincerely,

J. GORMAN ROSENBERGER, Jr.

[From the News, Lynchburg, Va., Nov. 29, 1977]

LEGAL ASSISTANCE TO BE DISCUSSED

Lynchburg Community Action Group Inc. (Lyn-CAG) announces that the legal services corporation will hold a public meeting at 7:30 p.m., Wednesday at the

YWCA at Sixth and Monroe Streets to discuss the possibility of a legal assistance program for low-income persons

Lynchburg has been proposed as a location for a program office which would serve the city and counties of Appomattox and Campbell.

THE LEGAL AID SOCIETY OF GREATER LYNCHBURG,
Lynchburg, Va. November 30, 1977.

Mr. KENNETH S. WHITE,
*Attorney at law,
Lynchburg, Va.*

DEAR KEN: I am writing this letter for the purpose of summarizing our conversation on the telephone yesterday and of notifying the Bar Association of recent developments which may affect the Legal Aid Society of Greater Lynchburg. Enclosed herein please find a copy of each of the hereinafter mentioned letters which pertain to the proposed new legal aid organization which would cover the City of Lynchburg and Campbell County, if approved: Copy of letter dated November 28, 1977, from Henry L. Woodward to myself; and Copy of letter dated November 28, 1977, from myself to Dave Petty.

On Wednesday, November 23, 1977, Henry Woodward, General Counsel for the Legal Aid Society of Roanoke Valley, asked me to meet with him to discuss a proposed new legal aid organization which would cover Lynchburg and Campbell County. At my request Bernard Baldwin, a board member of Legal Aid, joined Mr. Woodward and myself for lunch to discuss this matter.

Mr. Woodward stated that three individuals had formed a "paper corporation" known as the Virginia Legal Aid Society and has submitted a proposal for a new legal aid organization to the Regional Office of the Legal Services Corporation which covers Virginia. The geographical area which the Virginia Legal Aid Society would serve is rather extensive, going from Emporia to counties near Roanoke. Cities to be served by the new legal aid include Danville and Martinsville. Mr. Woodward also stated that the City of Lynchburg and the County of Campbell are proposed as areas to be served by the Virginia Legal Aid Society. Mr. Woodward also informed me that Mr. Walker Thompson, Director of Region IV of the Legal Services Corporation in Arlington, Virginia, was aware of the specifics of the said proposal.

On Monday, November 28, 1977, I spoke with Mr. Walker Thompson on the telephone. He indicated to me that the final recommendations for the proposed new legal aid organization has been completed and placed on the desk of Mr. Thomas Ehrlich, President of the Legal Services Corporation. Apparently the last step in approving the said proposed legal aid organization is the signature of Mr. Thomas Ehrlich. Subsequently I again called Mr. Thompson requesting that the final decision on the proposed new legal aid be delayed until our Board could determine the specifics of the proposal and have a meeting to discuss the same. Mr. Thompson assured me that no final action would be taken on the proposal until someone from his office had met with myself and other interested persons. A representative from Mr. Thompson's office will be in Lynchburg on Monday, December 12, 1977, at 3:00 p.m. to discuss the said proposal.

A public meeting is scheduled to be held at the Phyllis Wheatley Branch of the YWCA on Wednesday, November 30, 1977, at 7:30 p.m. to "discuss the possibility of a legal assistance program for low-income persons" (a copy of the article in the Lynchburg News is enclosed herein).

We intend to have a meeting of the Executive Committee and/or Board in the near future in order to discuss the aforesaid recent developments.

If you have any questions, please let me know.

Sincerely,

J. GORMAN ROSENBERGER, Jr.

Enclosures (3).

NOVEMBER 30, 1977.

Mr. WALKER THOMPSON,
*Director, Legal Services Corporation, Region IV,
Arlington, Va.*

DEAR MR. THOMPSON: I appreciate your talking to me on the telephone on Monday, November 28, 1977, concerning the proposed legal aid organization which would cover Lynchburg and Campbell County. Pursuant to our conversation on

Monday afternoon it is also my understanding that no further action will be taken on the application for the proposed legal aid organization until our Board of Directors has an opportunity to talk with a representative from your office and to discuss this matter. According to my calendar, Mrs. Margaret Poles is scheduled to be in Lynchburg on Monday, December 12, 1977, at 3 p.m. to discuss the said proposal with our Board.

Sincerely,

J. GORMAN ROSENBERGER, Jr.

LEGAL SERVICES CORPORATION,
Arlington, Va., December 6, 1977.

GORMAN ROSENBERGER, Esq.
Legal Aid Society of Greater Lynchburg,
Lynchburg, Va.

DEAR MR. ROSENBERGER: Pursuant to your telephone request of yesterday, I am enclosing a copy of the Grant Application of the Virginia Legal Aid Society, copies of the Legal Services Corporation Act of 1974 (42 USC § 2996), Regulations of the Corporation (45 CFR §§ 1600 et seq.) and Guidelines for the Selection of Applicants to Serve New Areas. [Enclosures omitted]

On November 28, 1977, I recommended to the Director of Field Services that the Virginia Legal Aid Society receive \$529,151 to provide legal services to the following areas: Greenville, Brunswick, Sussex, Dinwiddie, Mecklenburg, Halifax, Lunenburg, Prince Edward, Nottaway, Amelia, Buckingham, Cumberland, Charlotte, Campbell, Appomattox, Pittsylvania, Henry, Patrick, City of Danville, City of Emporia, City of Lynchburg, City of Martinsville, and City of South Boston.

I have also recommended the following special grant conditions:

1. Prior to the receipt of any funds pursuant to this grant, the recipient will amend its Charter and By-laws and structure its governing board to reasonably reflect the interests and characteristics of the eligible clients in the area served in accordance with the Legal Services Corporation Act of 1974 and applicable Regulations.

2. Prior to the expenditure of any funds awarded to the Counties of Greenville, Brunswick, Sussex, Dinwiddie, Mecklenburg, Halifax, Lunenburg, Prince Edward, Nottaway, Amelia, Buckingham, Cumberland, Charlotte, Campbell, Appomattox, Pittsylvania, Henry, and Patrick, and the Cities of Danville, Emporia, Lynchburg, Martinsville, and South Boston, the recipient shall submit for approval to the Legal Services Corporation's Northern Virginia Regional Office a plan for the provision of such services.

3. The present Board of Directors shall select a transition Board of Directors, which will serve as the recipient's governing board for one year in accordance with the Legal Services Corporation Act of 1974 and applicable Regulations. This transition board shall include representatives of each of the recipient's geographic service areas.

4. Prior to the appointment of any person to the position of Executive Director, the recipient shall secure the approval of the Legal Services Corporation.

As I advised in our telephone conversation of yesterday, we strongly encourage your program's participation in both the planning and implementation of the grant in your program's present service area. In this connection, Margaret Poles and Henry Woodward look forward to meeting with you and others on December 12, 1977 in Lynchburg.

If you have any questions anytime, please do not hesitate to bring them to my attention.

Yours truly,

WALKER T. THOMPSON,
Regional Director.

Enclosures A/S.

[From the Federal Register, Vol. 42, No. 235—Dec. 7, 1977]

GRANTS AND CONTRACTS

The Legal Services Corporation was established pursuant to the Legal Services Corporation Act of 1974, Pub. L. 93-355, 88 Stat. 378, 42 U.S.C. 2996-2996f. Section 1007(f) provides: "At least 30 days prior to the approval of any grant application or prior to entering into a contract or prior to the initiation of any other project, the

Corporation shall announce publicly, and shall notify the Governor and the State Bar Association of any State where legal assistance will thereby be initiated, of such grant, contract, or project * * *

The Legal Services Corporation hereby announces publicly that it is considering the grant applications submitted by:

1. Virginia Legal Aid Society in Richmond, Va., to serve Greenville, Brunswick, Sussex, Dinwiddie, Mecklenburg, Halifax, Lunenburg, Prince Edward, Nottaway, Amelia, Buckingham, Cumberland, Charlotte, Campbell, Appomattox, Pittsylvania, Henry, and Patrick counties, and the cities of Danville, Emporia, Lynchburg, Martinsville, and South Boston.

2. Neighborhood Legal Aid Society, Inc. in Richmond, Va., to serve the counties of New Kent, Charles City, Goochland, Powhatan, and Prince George, and the city of Petersburg.

3. Legal Aid Society of Roanoke Valley in Roanoke, Va., to serve the counties of Franklin and Alleghany, and the cities of Covington and Clifton Forge.

Interested persons are hereby invited to submit written comments or recommendations concerning the above applications to the Regional Office of the Legal Services Corporation at: Legal Services Corporation, Northern Virginia Regional Office, 1730 North Lynn Street, suite 600, Arlington, Va. 22209.

THOMAS EHRLICH,
President.

THE LEGAL AID SOCIETY OF GREATER LYNCHBURG,
Lynchburg, Va., December 7, 1977.

MR. WALKER THOMPSON,
Regional Director, Legal Services Corporation,
Arlington, Va.

DEAR MR. THOMPSON: For your information I would like to summarize the events which have occurred during the last ten (10) days concerning the proposed Virginia Legal Aid Society.

On Wednesday, November 23, 1977, Henry Woodward, General Counsel for the Legal Aid Society of Roanoke Valley and consultant for the Legal Services Corporation, asked me to meet with him to discuss a proposed new legal aid organization which would serve the City of Lynchburg and Campbell County in addition to Southside Virginia. A member of our Board of Directors, Mr. Bernard Baldwin, joined Mr. Woodward and me for lunch at which time we learned of the aforesaid proposal.

Mr. Woodward stated that three individuals had formed a "paper corporation" known as the Virginia Legal Aid Society and had submitted a proposal for a new legal aid organization to the Regional Office of the Legal Services Corporation which covers Virginia. We were informed that the proposed legal aid society would cover a rather extensive geographical area known as Southside Virginia. Mr. Woodward also stated that the City of Lynchburg and the County of Campbell are proposed as areas to be served by the Virginia Legal Aid Society. Concern was expressed over our not being informed earlier of this proposal and over a duplication of services by the proposed organization, since the Legal Aid Society of Greater Lynchburg serves Lynchburg and Campbell County and has been doing so since 1972. Mr. Woodward informed me that I should contact you concerning the specifics of the said proposal.

On Monday, November 28, 1977, I spoke with you twice on the telephone concerning this matter. From our conversation I understood that the final recommendations for the proposed Virginia Legal Aid Society had been completed and placed on the desk of Mr. Thomas Ehrlich, President of the Legal Services Corporation, for his approval. It is also my understanding that the final step in approving the said proposed legal aid organization is the signature of Mr. Thomas Ehrlich.

During our second conversation on Monday, November 28, 1977, I requested that the final decision on the proposed new legal aid be delayed so that our Board of Directors could determine the specifics of the proposal and have the necessary time to discuss the same. You indicated that a thirty day period would have to run before Mr. Ehrlich could approve the said proposal and that someone from your office would meet with our Board of Directors in Lynchburg before the thirty day period expired. Subsequent to our conversation, Margaret Poles from your office said that she would meet with our Board of Directors on Monday, December 12, 1977, to discuss the specifics of the said proposal.

On Wednesday, November 30, 1977, Mr. Henry Woodward was in Lynchburg again for the purpose of holding a public meeting "to discuss the possibility of a

legal assistance program for low-income persons". I met with Mr. Woodward on Wednesday afternoon prior to the said meeting. Mr. Raymond E. Baker, a member of the first Board of Directors of Legal Aid and the Reverend Haywood Robinson, a present member of our Board were also present. The purpose of the meeting was to discuss further the said proposal with Mr. Woodward.

On the night of November 30, 1977, I attended the aforesaid public meeting with Mr. Woodward where the proposal was again discussed. Mr. Woodward indicated that he was not sure of the time period remaining before the said proposal would become final. I indicated to Mr. Woodward that we were not aware of the proposed new legal aid until November 23, 1977, when he met with me, and that our Board of Directors should be given an opportunity to examine the proposal before it became final. Several alternatives to the present proposal were also discussed. Mr. Woodward indicated that he would have the legal Services Corporation send to me a copy of the proposal, the recommendations, and any other material related to the proposed legal aid organization. As of this time I have not received any written information from the Legal Services Corporation.

On Thursday, December 1, 1977, a special meeting of the Board of Directors of the Legal Aid Society of Greater Lynchburg was called for Friday, December 2, 1977, in order that the events recited herein could be presented to the Board. Since you had indicated to me on November 28, 1977, that the staff in your office would be out of town for the remainder of the week and since there appeared to be some question concerning the time remaining before the said proposal would become final, I called Mr. Don Ruby in the office of the Honorable M. Caldwell Butler, the representative to Congress from the district which covers Lynchburg, to learn if he had any information concerning the proposal. Mr. Ruby said that he would look into the matter and find out the amount of time remaining for consideration of the proposal. Mr. Ruby called me back on the afternoon of December 1, 1977, to state that the proposal had to be published in the Federal Register and that no further action could be taken for a period of thirty days thereafter.

On Friday, December 2, 1977, our Board of Directors met to discuss the matters recited herein. The Board asked that I obtain a copy of the complete file on the said proposal and report on the same.

Our Board of Directors is anxious to study the said proposal and have an opportunity to weigh the alternatives that are now presented. Since the Legal Aid Society of Greater Lynchburg has been serving the citizens of Lynchburg and Campbell County for more than five years, the Board of Directors of our Society is very much interested in any proposals or recommendations which may affect its operation. There are many people who have worked hard over the past several years to establish legal services in this area for the poor and who have worked to insure the continuation of our Legal Aid Society. The City of Lynchburg and Campbell County have recognized our accomplishments by repeated funding of the program. Since the proposal for the establishment of a new legal aid society for Lynchburg and Campbell County will have an impact on our program and the services we provide to the citizens of this area, we would appreciate a sufficient amount of time to study thoroughly the application for and recommendations pertaining to the new proposed legal aid society and to weigh the alternatives which now are presented.

We were not aware of the proposed Virginia Legal Aid Society until November 23, 1977, although the proposal was submitted during the summer of 1977. The first person to contact us concerning the said proposal was Mr. Henry Woodward on the day before Thanksgiving. It also appears that there is little time remaining before the said proposal will become final—around the end of December, 1977.

A legal assistance program for low income persons is available to residents of Lynchburg and Campbell County. The Legal Aid Society of Greater Lynchburg has been serving the citizens of this area for more than five years. During this time period the number of applicants and clients served has substantially increased. Although our Board has not seen the particulars of the said proposal, we have serious questions concerning the inclusion of the City of Lynchburg and Campbell County in a legal aid organization which will cover such a large geographic area.

Since the Legal Aid Society of Greater Lynchburg is presently providing legal services to the poor for the citizens of Lynchburg and Campbell County and since our Society was not notified until November 23, 1977, of the said proposal, and since our Board of Directors is very much interested in the said proposal as it relates to our area and since our Board of Directors desires to study the recommendations concerning the said proposal, I respectfully request that no further action be taken on the said proposal as it relates to the area served by the Legal Aid Society of Greater Lynchburg for a period of no less than one hundred and eighty days in order that our Board of Directors may properly consider the alternatives presented.

I hope that you understand that our objective is entirely consistent with yours and that is to find the most effective way to serve the legal needs of the impoverished of this area.

I would appreciate your sending to me a copy of the enabling legislation with all amendments thereto under which the said legal aid society is proposed. In addition, I would also appreciate your sending me a copy of the complete record of the proposed legal organization for our study.

If you have any questions, please do not hesitate to contact me. Thank you.

Sincerely,

J. GORMAN ROSENBERGER, Jr.

LEGAL SERVICES CORPORATION,
Arlington, Va., December 15, 1977.

GORMAN ROSENBERGER, Esq.,

Director, Legal Aid Society of Greater Lynchburg.

Lynchburg, Va.

DEAR MR. ROSENBERGER: I have received your letter of December 7, 1977, in which you request copies of certain documents and no further action on the proposal of the Legal Aid Society of Virginia for a period of no less than one hundred and eighty days. As you are aware, following our telephone conversation of December 5, 1977, copies of those documents were mailed to you on December 6, 1977.

I will recommend against any delay in the consideration of the application of the Legal Aid Society of Virginia. As Margaret Poles indicated to you at your meeting on December 12, 1977, our grant solicitation process for Fiscal Year 1978 expansion applications began in earnest more than a year ago and was extensive. We offered full opportunity for input into our recommendations from every person manifesting any interest in any aspect of expansion in Virginia. To the best of my knowledge, delay would serve no legitimate purpose, and it would inevitably postpone the delivery of legal services in areas which have in excess of one hundred thousand eligible clients.

Since your first contact with any representative of the Legal Services Corporation, you have been encouraged to participate in the planning and implementation of the grant in your program's service area. I urge you to take advantage now of the opportunity to submit to the Board of Directors of the Legal Aid Society of Virginia, or to us, any suggestions or concerns you have regarding the delivery of services.

Yours truly,

WALKER T. THOMPSON,
Regional Director.

THE LEGAL AID SOCIETY OF GREATER LYNCHBURG,
Lynchburg, Va., December 16, 1977.

Mr. WALKER T. THOMPSON,
Regional Director, Legal Services Corporation,
Arlington, Va.

DEAR MR. THOMPSON: I am in receipt of your letter of December 15, 1977, in which you indicated that you would not recommend a delay in the consideration of the application of the Legal Aid Society of Virginia.

There appears to be a misunderstanding concerning the request made in my letter to you of December 7, 1977. I want to emphasize that it is not our desire to delay or postpone the delivery of legal services to any of the areas proposed to be served by the Legal Aid Society of Virginia nor did we make a request which would cause such a result.

In said letter I requested "that no further action be taken on the said proposal as it relates to the area served by the Legal Aid Society of Greater Lynchburg * * *". We are requesting that the City of Lynchburg, Campbell County and Appomattox be excluded from the proposed areas to be served in order that we can submit a proposal to your office to cover these areas in addition to Amherst County. We are not asking that the entire proposal be delayed at all, but only that Lynchburg, Campbell County and Appomattox County be excluded at this time. It is also significant that the Legal Aid Society of Greater Lynchburg shall continue to provide legal services to the impoverished of the area served while we prepare a proposal for the aforementioned counties and cities.

We shall submit comments and recommendations to the Legal Services Corporation concerning the proposed Virginia Legal Aid Society within the next week in which we shall include our proposal concerning this matter.

Sincerely,

J. GORMAN ROSENBERGER, Jr.

THE LEGAL AID SOCIETY OF GREATER LYNCHBURG,
Lynchburg, Va., December 16, 1977.

Mr. JAMES E. GHEE,
Attorney at Law,
Farmville, Va.

DEAR MR. GHEE: I am writing this letter pursuant to our conversation on the telephone this afternoon. As you know we were scheduled to meet on Friday, December 9, 1977, which meeting was postponed until Monday, December 19, 1977, in order that your Board could be present.

Since you are a member of the Board of the Virginia Legal Aid Society, I know that you are aware of the specifics of the new proposed legal aid society and of the recommendations made by Mr. Walker Thompson concerning said legal aid society on November 28, 1977.

The Legal Aid Society of Greater Lynchburg serves the City of Lynchburg and Campbell County, two areas to be also served by the proposed Virginia Legal Aid Society. We requested, by letter dated December 7, 1977, the Legal Services Corporation to give us an extension of time on the said proposal in so far as it concerned the area served by the Legal Aid Society of Greater Lynchburg. We are not in anyway requesting that the entire proposal concerning the Virginia Legal Aid Society be delayed—only that Lynchburg, Campbell County and Appomattox be delayed in order that a new proposal may be submitted.

The geographic area covered by the Virginia Legal Aid Society is rather extensive. Most of the areas proposed to be served by the new legal aid society constitute the area of Southside Virginia. There is a geographical and community interest among the jurisdictions of Lynchburg, Campbell County, Appomattox County and Amherst County (in fact, all are a part of the same planning district). We feel that an area consisting of Lynchburg, and the counties of Campbell, Appomattox, and Amherst would offer significant advantages to the poor of this area over the inclusion of only some of the area in a much larger area as now proposed.

It is also significant that the Legal Aid Society of Greater Lynchburg shall continue to provide legal services to the impoverished of the area served while we prepare a proposal for the aforementioned counties and city.

We are presently requesting that Lynchburg, Campbell County and Appomattox County not be covered by the Virginia Legal Aid Society in order that a proposal for the Central Virginia area can be prepared. I hope that you understand that our objective is entirely consistent with yours and that is to find the most effective way to serve the legal needs of the impoverished of this area.

I appreciate very much your efforts to have your Board meet with representatives from our Board. Since I have discussed the proposal of our Board with you and since the question concerning the geographical coverage of the Virginia Legal Aid Society is presently before the Legal Services Corporation, it does not appear that a meeting with your Board is necessary at this time.

Thank you again for your assistance and if you have any questions, please do not hesitate to contact me.

Sincerely,

J. GORMAN ROSENBERGER, Jr.

THE LEGAL AID SOCIETY OF GREATER LYNCHBURG,
Lynchburg, Va., December 20, 1977.

Mr. THOMAS EHRLICH,
President, Legal Services Corporation,
Washington, D.C.

DEAR MR. EHRLICH: I appreciate your calling me yesterday concerning the proposed Virginia Legal Aid Society.

It is my understanding from our conversation that you will delay any action on the proposed Virginia Legal Aid Society until after February 1, 1978, and that you

will have the necessary forms and material sent to me for submitting a proposal to the Legal Services Corporation.

Thank you for your assistance.

Sincerely,

J. GORMAN ROSENBERGER, Jr.

LEGAL SERVICES CORPORATION,
Arlington, Va., December 22, 1977.

J. GORMAN ROSENBERGER, Jr.,
Director, Legal Aid Society of Greater Lynchburg,
Lynchburg, Va.

DEAR MR. ROSENBERGER: Enclosed are copies of the Legal Services Corporation grant application. If you need any assistance in completing the application, or if you have any questions, please feel free to contact me. As indicated in the "Guidelines for the Selection of Applicants to Serve New Areas" funding for new grantees is limited to the per capita level of \$4.90 per poor person.

We hope that we can sit down and talk with you, your staff, and members of your Board as soon as possible concerning legal services in the Lynchburg area. Please advise us if the week of January 3-6, 1978 would be convenient.

We look forward to receiving your proposal as soon as possible. For Corporation filing purposes, we need four copies of the application, with original signatures on the signature page of each copy. Again, if you have any questions, please call us.

Sincerely yours,

WALKER T. THOMPSON,
Regional Director.

LEGAL SERVICES CORPORATION,
Arlington, Va., January 16, 1978.

KENNETH S. WHITE,
President, Lynchburg Bar Association,
Lynchburg, Va.

DEAR MR. WHITE: Pursuant to Section 1007(f) of the Legal Services Corporation Act of 1974, as amended (42 USC Section 2996(f)), this letter is to provide notice to the Lynchburg Bar Association that the Legal Services Corporation is considering an application for a grant to provide civil legal services to the poor in the City of Lynchburg. The application has been submitted by the Virginia Legal Aid Society, Richmond, Virginia. The application proposes a program of legal services which includes Greenville, Brunswick, Sussex, Dinwiddie, Mecklenburg, Halifax, Lunenburg, Prince Edward, Nottaway, Amelia, Buckingham, Cumberland, Charlotte, Campbell, Appomattox, Pittsylvania, Henry and Patrick Counties, and the Cities of Danville, Emporia, Lynchburg, Martinsville, and South Boston. If all of these counties and cities are funded, the grant would be approximately \$529,151.

The Lynchburg Bar Association is invited to submit written comments and recommendations concerning the application to this regional office. If more information is desired concerning the above grant application, please feel free to call or write to our office. We will certainly be grateful for the help you provide in carrying out the Legal Services Corporation's mandate to support legal assistance for the poor.

Cordially,

WALKER T. THOMPSON,
Regional Director.

LYNCHBURG BAR ASSOCIATION,
Lynchburg, Va., January 18, 1978.

DAVID T. PETTY, Jr., Esq.,
Kizer, Phillips & Petty,
Lynchburg, Va.

DEAR DAVE: Enclosed herewith is a copy of a letter dated January 16, 1978, that I have received from Walker T. Thompson, Regional Director of Legal Services Corporation.

During our telephone conversation last week we discussed the possibility of convening the Executive Committee of the Lynchburg Bar Association to discuss this problem.

Although Mr. Thompson does not indicate in his letter that there is any deadline with regard to my response, I sense from our earlier conversation that there is some urgency to the matter.

Please give me some dates that would be available to you for a luncheon meeting of the Executive Committee during next week or the week following.

Many thanks.

Very truly yours,

KENNETH S. WHITE,
President.

LYNCHBURG BAR ASSOCIATION,
Lynchburg, Va., January 31, 1978.

WALKER T. THOMPSON, Esq.,
Regional Director, Legal Services Corporation,
Arlington, Va.

DEAR MR. THOMPSON: This will acknowledge your letter of January 16, 1978, providing notice to the Lynchburg Bar Association that the Legal Services Corporation is considering an application for a grant to provide civil legal services to the poor in the City of Lynchburg.

As you may already know, the Lynchburg Bar Association organized the Legal Aid Society of Greater Lynchburg a number of years ago. It is our understanding that the Legal Aid Society of Greater Lynchburg has submitted or is planning to submit a proposal for funding to the Legal Services Corporation. You will find enclosed herewith a resolution which was adopted unanimously at a duly called special meeting of the Lynchburg Bar Association on January 30, 1978. By this resolution the Lynchburg Bar Association has unanimously endorsed the proposal for funding of the Legal Aid Society of Greater Lynchburg.

It is the position of the Lynchburg Bar Association that the legal aid needs of the Lynchburg metropolitan area can best be served by the Legal Aid Society of Greater Lynchburg.

Very truly yours,

KENNETH S. WHITE,
President.

Enclosure.

Whereas there is now pending before the Legal Services Corporation a grant application for funding of the Virginia Legal Aid Society, Inc. which proposes to serve some twenty-three jurisdictions in Southside and Central Virginia including the City of Lynchburg, the County of Campbell, and the County of Appomattox;

Whereas the Legal Aid Society of Greater Lynchburg is preparing a proposal to submit to the Legal Services Corporation which would serve the City of Lynchburg, the County of Campbell, the County of Appomattox and the County of Amherst;

Whereas the Lynchburg Bar Association recognizes that the proposal of the Legal Aid Society of Greater Lynchburg can provide a more manageable program than the proposal of the Virginia Legal Aid Society since it covers the Central Virginia area, which is a more cohesive geographic region and a natural, traditional area of culture, trade and community of interest;

Whereas the Lynchburg Bar Association recognizes that the most effective, efficient and economical means of providing legal services to low income persons in the Central Virginia area is through the proposal of the Legal Aid Society of Greater Lynchburg;

Now therefore be it resolved by the Lynchburg Bar Association:

1. That the said Association does hereby endorse and support the proposal of the Legal Aid Society of Greater Lynchburg to provide legal services to the jurisdictions of Lynchburg, Campbell County, Appomattox County and Amherst County;

2. That the said Association does hereby request that the Legal Services Corporation act favorably on the application of the Legal Aid Society of Greater Lynchburg.

Adopted: January 30, 1978.

WRITTEN COMMENTS AND RECOMMENDATIONS ON BEHALF OF THE LEGAL AID SOCIETY OF GREATER LYNCHBURG CONCERNING THE PROPOSAL FOR VIRGINIA LEGAL AID SOCIETY, INC. (dated Jan. 31, 1978)

The comments and recommendations included herein are addressed to the pending proposal for funding for the Virginia Legal Aid Society as it relates to the City

of Lynchburg, the County of Campbell and the County of Appomattox. The comments and recommendations should not be interpreted as opposing the Virginia Legal Aid Society serving the remaining twenty jurisdictions listed in the application. The objective of these comments and recommendations is entirely consistent with yours, and that is to find the most effective way to serve the legal needs of the impoverished of the area of Lynchburg, Campbell County and Appomattox County.

GEOGRAPHIC AREA

The proposed area to be served by the Virginia Legal Aid Society, as modified in the recommendation of Mr. Walker Thompson, the Regional Director for Region IV of the Legal Services Corporation, covers a large number of jurisdictions: eighteen (18) counties and five (5) independent cities as follows: Greenville, Brunswick, Sussex, Dinwiddie, Mecklenburg, Halifax, Lunenburg, Prince Edward, Nottoway, Amelia, Buckingham, Cumberland, Charlotte, Campbell, Appomattox, Pittsylvania, Henry, Patrick, City of Danville, City of Emporia, City of Lynchburg, City of Martinsville, and City of South Boston.

The number of jurisdictions to be served by the Virginia Legal Aid Society is not only large but the mere size of the geographic area covered is staggering.

The proposal calls for the establishment of six local offices in addition to a central office. The local offices will be located in Lynchburg, Danville, Emporia, Farmville, South Boston, and Martinsville, with the central office in Richmond. The office in Lynchburg would serve the City of Lynchburg and the counties of Campbell and Appomattox. In addition the proposal states that since "the geographic area to be served is immense, and the transportation and road system are very inadequate . . . much of the intake will be done by paralegals riding circuit to interview in homes or other agencies where an office visit is not practical for the prospective client".

The Legal Aid Society of Greater Lynchburg serves the City of Lynchburg and Campbell County. The main office is located in Lynchburg with a branch office in Rustburg. From experience, it has been found that it is difficult for many of the Campbell County clients to travel to the office in Lynchburg. Therefore, a branch office was set up in Rustburg to interview and assist the Campbell County clients who are unable to come to the Lynchburg office.

Since the vast majority of Appomattox residents live farther from Lynchburg than the residents of Campbell County, it will be difficult for a good number of the prospective clients from Appomattox to travel to the Lynchburg office. In fact, to properly serve the citizens of Appomattox County, it would be necessary to establish a branch office more convenient to Appomattox than the Lynchburg office.

The vast majority of the jurisdictions to be served by the Virginia Legal Aid Society comprise a geographic area known as and referred to as Southside Virginia. Three jurisdictions proposed to be served, however, are located in a different geographic area of the State known as and referred to as Central Virginia. The Central Virginia area includes the counties of Amherst, Appomattox, Campbell, and Bedford and the cities of Lynchburg and Bedford.

Jurisdictions in the Central Virginia area to be served by the proposed Virginia Legal Aid Society are the counties of Campbell and Appomattox and the City of Lynchburg. Not included as an area to be served in the proposal in Amherst County which is not presently served by an existing legal aid office. The City and County of Bedford are presently served by the Legal Aid Society of Roanoke Valley. The aforementioned cities and counties are not only known and referred to as Central Virginia, but each is a member of the same planning district, the Central Virginia Planning District.

There does not exist a natural cohesiveness between the Central Virginia area and the other areas included in the proposal. Not only is there a geographical proximity of the jurisdictions of Amherst, Appomattox, Campbell, and Lynchburg, but there is a broad community interest which exists between these areas that does not exist with the other areas included in the proposal.

The original application to the Virginia Legal Aid Society proposed to serve thirty-four counties and cities. Subsequently, Mr. Walker Thompson, Regional Director of Region IV of the Legal Services Corporation, recommended that eleven jurisdictions be removed from the areas to be served by the Virginia Legal Aid Society. None of the jurisdictions so removed in the Regional Director's recommendation are presently served by an established existing legal aid office. The Regional Director's recommendation of areas to be served by the new legal aid society includes, however, two jurisdictions, the City of Lynchburg and Campbell County, which are and have been served by an established, existing legal aid society for more than five years.

The Central Virginia area has been aware of and recognized the need for legal services to the poor for several years. In 1972, the Legal Aid Society of Greater Lynchburg was opened to provide legal services to low income citizens of Lynchburg and Campbell County. In the County of Armherst the bar association established a procedure by which citizens of that county could obtain the legal services from members of the bar on a rotation basis. No other areas covered under the proposal have made the effort to provide legal services to low income persons as has been done by the jurisdictions of Central Virginia.

JURISDICTIONS REMOVED

According to Exhibit VII of the proposal, the jurisdictions to be served by the Virginia Legal Aid Society have a total poor population of 173,112.

<i>Area office and area served</i>	<i>Poor population</i>
Emporia—Greenville, Brunswick, Sussex, Dinwiddie	17,398
South Boston—Mecklenburg, Halifax, Lunenburg	20,026
Farmville—Prince Edward, Nottoway, Amelia, Buckingham, Cumberland, Charlotte	16,006
Lynchburg—Campbell, Appomattox	15,246
Danville—Pittsylvania	21,885
Martinsville—Henry, Patrick	11,536
Removed from original proposal:	
Galax—Carroll, Grayson	9,643
Norton—Wise, Lee, Scott, Dickenson	34,799
Tazewell—Tazewell, Buchanan, Russell	26,573
Total	173,112

On November 28, 1977, the Regional Director of Region IV of the Legal Services Corporation recommended that certain jurisdictions be removed from the proposal. The jurisdictions so removed had a total poor population of 71,015 (see Exhibit VII of proposal). It is interesting that the jurisdictions recommended to be removed from the proposal do not have any existing and established legal aid offices. The poor population of the jurisdictions to be removed constituted 41 percent of the total poor population in the original proposal.

The City of Lynchburg and the counties of Campbell and Appomattox together have a total poor population which is less than 9 percent of the total poor population of the jurisdictions included in the original proposal. The poor population of Lynchburg, Campbell, and Appomattox is also less than 15 percent of the total poor population of the jurisdictions included in the Regional Director's recommendation.

To remove the City of Lynchburg and the Counties of Campbell and Appomattox from either the original proposal or the proposal as recommended by the Regional Director for Region IV of the Legal Services Corporation in no way approaches the large cut in jurisdictions and poor people, who do not have any legal services available to them, which was made by the Regional Director.

NEED

The availability of legal services to the poor in the proposed area to be served by the Virginia Legal Aid Society is mentioned in the applications. The references made in the proposal to the legal services available to the poor in the area served by the Legal Aid Society of Greater Lynchburg are misleading and incorrect. Specific references in the proposal concerning the availability of legal services for the poor in the areas to be served by the Virginia Legal Aid Society are as follows:

"The volume of cases is expected to be quite high since the area to be served has either never had any legal services program or has had only token programs." (Page two of proposal)

"These offices will be in areas which are now completely unserved (except for a one-person, locally funded office in Lynchburg), and therefore each office will have to be started from scratch." (Page eight of proposal)

"The approach set out in this application is basically a regional one. It is submitted that this approach is the only way feasible to provide effective and relatively economically efficient legal services to the poor in this sparsely populated area which has not been receptive to legal services on the needs of the poor." (Page nine of proposal)

The aforementioned statements are inaccurate and are misrepresentations of fact as applied to the City of Lynchburg and Campbell County.

Legal services for the poor have been available in the City of Lynchburg and Campbell County since 1972, when the Legal Aid Society of Greater Lynchburg

opened. A great amount of time and effort on the part of many concerned people was expended over five years ago in establishing the Legal Aid Society of Greater Lynchburg. In addition, many concerned individuals have continued to work with and support the Lynchburg organization during the past 5 years. The City of Lynchburg and Campbell County have recognized the accomplishments of the Society by repeated funding of the program. To say that the people or the governing bodies of the Lynchburg area have not been receptive to legal services or the needs of the poor is a misrepresentation of facts and of all the work which has gone into the establishment and continuation of the existing legal aid organization.

Over the past five years the number of applicants and the number of clients served has substantially increased. This increase in services provided by the Legal Aid Society of Greater Lynchburg reflects the amount of work performed for the clients served. The statistics show very clearly that in no way has the Legal Aid Society of Greater Lynchburg operated as a token program (see Appendix A attached hereto and the letters attached to the proposal of the Legal Aid Society of Greater Lynchburg).

The Legal Aid Society of Greater Lynchburg is not a one-person office. One-person or even one attorney could not perform the kind and number of services which this office regularly does. The staff of the Legal Aid Society consists of two attorneys and one volunteer attorney in addition to the non-legal staff and numerous volunteers.

Each of the aforesaid statements made in the proposal concerning the need for legal services was incorrect and a misrepresentation of fact as applied to the City of Lynchburg and Campbell County. It is disturbing that the Regional Director, Mr. Walker Thompson, did not have before him the accurate material and statistics concerning the legal services available for low income persons in Lynchburg and Campbell County.

PRESENT SERVICES AVAILABLE

The Legal Aid Society of Greater Lynchburg has an office staffed with two attorneys and an additional volunteer attorney. The law books in this office exceed the minimum number and kinds of books listed in the proposal. There is a main office in downtown Lynchburg and a branch office in Rustburg. The funding cycle for the Legal Aid Society of Greater Lynchburg runs on a fiscal year from July 1 to June 30.

If each of the staff in the office was paid the recommended salary noted in the proposal, the total budget for salaries alone (no rent, office expenses, etc.) would equal approximately \$70,500.00. The aforementioned figures are quite significant when one considers the approximate budget available for Lynchburg, Campbell County and Appomattox under the proposal.

We have been informed that the proposed legal aid society will be funded on a level of \$4.90 per poor person. Since there are 15,246 poor people listed for Lynchburg, Campbell, and Appomattox, the budget for this area would be approximately \$74,705.40. If the proposed office for Lynchburg included a staff equivalent to the staff in the now-existing office, at the recommended level of salaries, then there would be no funds available for rent, telephone, office expenses, etc. (especially if one considers FICA taxes which will be paid by the office in addition to the salaries.)

For the proposed office to provide a level of services equivalent to that performed by the existing office, more funds will be needed than are presently recommended for the Lynchburg office. It should also be noted that the staff listed for the existing office serves the jurisdictions of Lynchburg and Campbell County. The proposal covers Appomattox in addition to Lynchburg and Campbell County, thereby making the foregoing figures even more significant.

There are no existing legal aid offices in any of the jurisdictions proposed to be served by the Virginia Legal Aid Society with the exception of the office of the Legal Aid Society of Greater Lynchburg in Lynchburg and Campbell County. The proposal indicates that each of the offices in the areas to be served will have to be started from scratch. Since several new offices will have to be completely established under the proposal, it seems that it will take several months to have all of the offices in operation. Since Lynchburg and Campbell County are presently served by an existing office, priority will be given presumably to establishing offices in those areas not presently served. Therefore, it would appear that the proposal would not be hindered by the removal of Lynchburg, Campbell County and Appomattox County from the application to allow for the implementation of a program by the Legal Aid Society of Greater Lynchburg to provide legal services to the low income persons in Central Virginia.

CONCLUSION

Not only is the number of jurisdictions to be served by the Virginia Legal Aid Society large, but the vastness of the geographic area to be covered is staggering. The majority of jurisdictions covered under the proposal comprise a geographic area known as Southside Virginia. The city of Lynchburg, Campbell County and Appomattox County are all a part of the area known as Central Virginia and have a community interest not shared with the other jurisdictions to be served.

The Regional Director has recommended the exclusion of certain jurisdictions from the program which contains 41 percent of the total poor population in the original proposal. None of the jurisdictions so removed by the Regional Director have an established existing legal aid office. The poor population of Lynchburg, Campbell County and Appomattox County amounts to less than 9 percent of the total poor population of the areas proposed to be served, and less than 15 percent of the total poor population of the jurisdictions included in the Regional Director's recommendation. To remove the city of Lynchburg and the counties of Campbell and Appomattox in no way approaches the large cut in jurisdictions and poor population already made by the Regional Director.

The Legal Aid Society of Greater Lynchburg is now serving the City of Lynchburg and Campbell County. It would appear that if any jurisdictions are to be excluded from the proposal, it should be those jurisdictions which have existing, established legal aid offices and not those jurisdictions which have never had legal aid services available to low income persons. Those areas having no legal services available should have priority in the proposal over those areas which already have existing legal aid offices.

The Legal Aid Society of Greater Lynchburg is not operating a token program or a one-person office. In addition the Central Virginia area has been receptive to providing legal services for the poor. When the Regional Director made his recommendation, it is unfortunate that he did not have before him accurate material and statistics concerning the legal services available to low income persons in Lynchburg and Campbell County.

Since the geographic area covered under the proposal is not only immense but includes the Central Virginia area with the Southside Virginia area; and since the Regional Director has already recommended the exclusion of jurisdictions having 41 percent of the total poor population in the area to be served; and since the poor population of the three Central Virginia jurisdictions (Lynchburg, Campbell and Appomattox) is less than 9 percent of the total poor population in the proposal (and less than 15 percent of the total poor population in the Regional Director's recommendation); and since the City of Lynchburg and Campbell County are now and have been for more than five years served by an existing legal aid office; and since Amherst County, a part of Central Virginia, is not included in the proposal and has no existing legal aid office, and since the Regional Director did not have all of the necessary statistics and material concerning the legal services available in Lynchburg and Campbell County before him at the time of his recommendation; and since the proposal calls for the establishment of several offices in areas where there are no existing offices; and since the jurisdictions of Central Virginia (Lynchburg, Campbell, Amherst and Appomattox) have a common geographical and community interest; and since the said Central Virginia jurisdictions (Lynchburg, Campbell, Amherst and Appomattox) desire to establish a legal aid society to serve the needs of low income persons, it is respectfully recommended that the City of Lynchburg, the County of Campbell and the County of Appomattox be removed from the proposed area to be served by the Virginia Legal Aid Society.

APPENDIX A

YEARLY REPORT—JULY 8, 1975 TO JULY 7, 1976

This is the yearly report of the Legal Aid Society of Greater Lynchburg for the year beginning July 8, 1976. There has been a healthy increase over past year in both the average number of applications received and cases handled per month. This increase is reflected in the accompanying tables to this report.

PERSONNEL

During the past fiscal year of operation (July, 1974–July, 1975) Mr. Paul E. Pysell served as our Director. Mr. Pysell left Legal Aid last summer to accept a position with the United States Judge Advocate General's office. The new director, J. Gorman Rosenberger, assumed his duties in July of 1975. We were most fortunate in continuing to have the services of Mrs. Mary Riley as a full-time secretary. Her experience with the Legal Aid and the job has been of great benefit to the office. We were also fortunate to have with the us on a full-time basis, Mrs. Marion T. Baker, who qualified to practice law in the Commonwealth of Virginia in April, 1976. The

Legal Aid Society has been the grateful recipient of the volunteer legal services of Mr. Robert C. Morrison during the past year.

OFFICES

I feel that we have benefited by having an office in the City of Lynchburg which is centrally located with a reasonable rental. In Rustburg, we have an office adjacent to the court buildings which is extremely convenient for us and for our Campbell County clients.

The practice of having someone in the Rustburg office each week in order to take applications and interview clients has been continued. Since our office does a large amount of work in "family law", it has been found that the best time to be in the Rustburg office is on the days that the Juvenile and Domestic Relations District Court is in session (Mondays and Thursdays). I or someone from Legal Aid is at the Campbell County office every Monday and on Thursdays whenever possible.

Efforts have been made to inform the residents of Campbell County of the legal services available to them at the office in Rustburg. An article was run in the local newspapers in the latter part of the summer of 1975 giving information as to the times that we would be in Rustburg. After the article appeared in the paper, some increase in clients at the Rustburg office was noticed. The majority of Campbell County residents, however, come into the Lynchburg office.

QUALIFICATION FOR SERVICE

The basic economic criteria were established by the Board in determining whether or not an applicant would qualify for legal services. The guidelines for qualification for services of the Legal Aid Society provide that the limit of income for one person shall be \$3,000 and for each additional person in the family an additional \$400 will be counted. A family of two, to qualify, had to earn less than \$3,400 per year; a family of three \$3,800 or less per year; etc. Those persons who receive solely Social Security or solely Welfare payments and do not have other substantial assets are deemed to be qualified. This criterion helped the administrative burden of our office so far as verifying applicant's assets, whether real or personal.

Aside from economic criteria, a basic policy was established, and has been carried out, of providing legal services only in instances where they were not otherwise available. Our office does not handle any criminal cases. Cases involving possible cash recoveries of more than nominal sums are always declined since private counsel can accept them on a contingent fee basis. And any applications received from persons who are not residents of Lynchburg or of Campbell County are referred back to the locality where the applicant resides.

The result of the guidelines used by our office is that we basically deal with nonfee-generating civil cases such as Divorce, Support, Custody, Visitation, Adoption, Contract disputes, Consumer problems, Guardian Appointments, Debt cases, Landlord and Tenant problems, etc.

REFERRALS

Any applicant who does not meet our guidelines because of income or because he does not live within the jurisdiction of Lynchburg or Campbell County is referred to an attorney within one of the jurisdictions, if he so desires.

We are more than willing to relinquish any case to a private attorney who may wish to handle the matter.

APPLICATIONS

During the twelve month period from July 8, 1975 until July 7, 1976, the Society received 1372 applications, which is the largest number for an average 12-month period since Legal Aid was stated. Of these, 851 were eligible for our services. We were able to close out approximately 577 of these 851 cases within the 12-month period.

The accompanying table breaks down these applications into appropriate categories of eligibility and our two jurisdictions of Lynchburg and Campbell County. The table also classifies the different types of problems for which the applicants sought our services.

Although the preponderance of cases were from Lynchburg, the cases which result in a court proceeding or hearing reflect the amount of work done for our Campbell County clients.

COURT CASES AND HEARINGS

During the twelve month period from July 8, 1975 until July 7, 1976, the Society was involved in 253 cases before courts or administrative agencies. The majority of

these cases were in the area of family law—custody cases, visitation, support, adoption, divorce, etc. Cases which were handled in the courts of Amherst and Livingston involved only qualified applicants from both Campbell County and Lynchburg.

It is good to report that the majority of our cases during the last twelve months were settled or are being settled or are being settled without having to resort to court proceedings.

Although the number of cases handled have increased over the last year, we have been able to proceed at a reasonable pace in disposing of and closing them. It is also noteworthy that it has only been necessary for us to appear in court a few times for such matters as consumer disputes, landlord-tenant problems, debt cases or contract disputes. The great majority of these matters have all been settled out of court.

RESPECTFULLY SUBMITTED BY J. GORMAN ROSENBERGER, JR.

July 8, 1975 through July 7, 1976: Applicants 1372; Cases referred 126; and Cases eligible 851.

Out of this: Lynchburg sent us 644 that were eligible and 323 ineligible. Campbell County sent us 207 eligible and 90 ineligible. With 108 applicants from outside Campbell and Lynchburg that were also ineligible plus a score that call in on the telephone and never file an application.

Classification breakdown of applicants

Sales contract	69	Nonsupport.....	105
Wage claim.....	15	Separation	59
Garnishment	17	Custody	71
Bankruptcy.....	48	Paternity.....	9
Other consumer.....	45	Change of name.....	15
State and welfare	24	Adoption	14
Social security.....	50	Other family	112
Workmen's compensation.....	11	Visitation	2
Veterans Administration.....	2	Torts	37
Unemployment insurance	25	Juvenile	2
Other administration	50	School case	1
Landlord and tenant	49	Misdemeanor	16
Housing Code Violations	4	Other criminal	19
Public housing	4	Committee procedure	6
Other housing	17	Other miscellaneous	48
Divorce.....	476		

Total 1,422

There is variance here as some have more than one problem on one application.

COURT CASES AND HEARINGS

(July 8, 1975 to July 7, 1976)

Juvenile and domestic relations	Lynchburg	Campbell	Amherst Lovingston
District court:			
Custody	24	6	4
Visitation	9	5	1
Support	12	10	1
Circuit court:			
Ore tenus	4	1	
Custody	2	1	2
Support		2	
Alimony	2	1	1
LRD&HA	2		
Divorces and depositions	80	42	1
General district court	9		
Social security	8	2	
Welfare hearings		1	
Adoptions	3	1	
Change of name	6	2	
Unemployment	4		
Inheritance tax	1		
Workmen's compensation	1		
Wills	2		
	169	74	10

Note: Cases in the Amherst and Lovington Courts involve only residents of Lynchburg and Campbell County.

STATISTICS FOR NINE MONTH PERIOD FROM JULY 1, 1976 TO MARCH 31, 1977

July 1, 1976 through March 31, 1977 (9 months): Applicants 892; and Cases Eligible 471

Out of this: Lynchburg sent us 367 eligible and 273 ineligible. Campbell County sent us: 104 eligible and 81 ineligible. With 67 applicants from outside Campbell County and Lynchburg that were also ineligible plus a score that call in on the telephone and never file an application.

Classification breakdown of applicants

Sales contract	52	Separation	52
Garnishment	12	Nonsupport	68
Wage claim	6	Custody/guardianship	63
Bankruptcy	25	Paternity	4
Other consumer	28	Adoption	14
State and welfare	15	Change of name	5
Social security/disability	49	Other family	50
Workmen's compensation	16	Visitation	14
Veterans Administration	5	Tort	27
Unemployment insurance	11	Juvenile	0
Other administration	22	School case	1
Private LL/T	39	Misdemeanor	9
Housing code violations	7	Other criminal	14
Public housing	0	Committee procedure	7
Other housing	10	Other miscellaneous	30
Divorce	286		
		Total	941

There is variance here as some have more than one problem on one application sometimes.

COURT CASES AND HEARINGS

(July 1, 1976 through March 31, 1977—9 months)

Juvenile and Domestic Relations	Lynchburg	Campbell County	Amherst	Bedford
District Court:				
Custody	14	8		1
Visitation	6	8		
Support	16	10	2	
Circuit court:				
Ore tenus	2		1	
Custody	8	1		
Support	8	1		
Alimony	2			
LRDHA	1			
Divorce and depositions	29	19	3	1
General district court	4			
Social security	15	2		
Welfare hearings				
Adoptions	7			
Change of name	7			
Unemployment	5	1		
Inheritance tax	1			
Workmen's compensation	4			
Will	1			
Deed	2			
Power of attorney	1			
Bank case	1			
Federal district court	1			
Total	134	51	6	2

¹ Cases in Amherst and Bedford Courts involve only residents of Lynchburg and Campbell County or cases that were referred to us by another Legal Aid.

FEBRUARY 6, 1978.

Mr. WALLACE CLAIR,
Executive Director, Central Virginia Commission on Aging, Inc.,
Lynchburg, Va.

DEAR MR. CLAIR: I enjoyed very much talking with you and Mrs. Dowdy last Friday. I feel that our discussion was most beneficial and I feel that there are many areas in which we can be of assistance to you and your organization can be of assistance to our clients. I am most hopeful that the proposal which was submitted to the Legal Services Corporation by the Legal aid Society of Greater Lynchburg shall be approved. In that case I look forward to working with a representative by the Commission on Aging to the Board of Directors and, hopefully, a representative on the Client Committee to be established under our proposal.

I began word on my own income tax returns over the weekend and found something which may be of interest to you and those who are served by the Commission on Aging. I have enclosed a copy of the cover page from the Virginia Income Tax Forms 1977 and also a copy of page 6 and 7 included in the 1977 Virginia Income Tax Forms concerning the tax credit for persons sixty-two years of age or older. The explanation given on the cover of the tax form and on page 6 does not, in my view, sufficiently explain the tax credit for which many persons sixty-two years of age or older may take. Obviously many persons who are sixty-two years of age or older were not aware of this tax credit last year as indicated on the front cover of the 1977 Virginia Tax forms.

By way of suggestion, it might be helpful to draw up a better explanation of this tax credit and have the same published in the newspapers serving the same area as your organization. It is my opinion that if this tax credit is available then persons who are 62 years of age or older should not lose it merely because they are unaware of the tax credit or do not understand it. If I may be of any assistance with this matter, either in simplifying the explanation or in disseminating the information to people who use our services, please feel free to call on me.

I appreciate very much your support of the proposal for a program to provide legal assistance to citizens in the Central Virginia area. Again I thank you for taking the time to talk with me about our proposal and also about the programs which you operate last Friday. I am most impressed with the number of programs which you have and also with the type of services that I have heard you provide to the citizens of this area.

Sincerely,

J. GORMAN ROSENBERGER, Jr.

Enclosure.

FEBRUARY 21, 1978.

Re proposal for a Legal Services Program for Central Virginia.

Mr. WALKER T. THOMPSON,
Regional Director, Legal Services Corporation,
Arlington, Va.

DEAR WALKER: Since the proposal of the Legal Aid Society of Greater Lynchburg was submitted to your office on January 31, 1978 contacts have been made with various agencies, organizations and individuals in the area to be served under the proposal concerning representation on the Board of Directors and on the Client Committee. We have received positive responses from those contacted concerning representation on the Board of Directors and on the Client Committee. In fact, names of individual clients or persons eligible to receive legal services have been submitted to us as potential Board members and/or members of the Client Committee. Contacts have been made with most of the potential members.

Potential representatives on the Board of Directors have been approached to determine their willingness to serve if the proposal is approved. A member of the Board of the Shalom Apartments, who is also a tenant at the said apartments, has agreed to serve on the Board of Directors as a client representative. A member of a local welfare advisory board has agreed to serve as a client representative on the Board; The Central Virginia Commission on Aging has submitted names of potential members for the Board of Directors and the Client Committee. One of the persons, whose name was submitted by the Commission on Aging, has agreed to serve on the Board of Directors as a client representative. Others, whose names were submitted by the Commission on aging, have agreed to serve on the Client Committee.

The Lynchburg Community Action Group is in the process of submitting names for an attorney representative on the Board of Directors and for a client representative on the Board of Directors. The director of United Way has been contacted and will submit the name of an attorney representative to the Board in the near future. A representative of the Black Baptist Ministers Conference of Lynchburg and vicinity has been contacted to submit the name of an attorney representative to the Board. A representative of the Lynchburg branch of the NAACP has been contacted to submit the name of an attorney representative to the Board if the proposal is approved.

The three Bar Associations in the area to be served will appoint the necessary representatives to the Board of Directors if the proposal is approved.

In addition to the organizations heretofore mentioned, contact has been made with the following agencies and organizations for potential representatives (both clients and agency representatives) on the Client Committee: Lynchburg Youth Services, Inc.; Family Service of Central Virginia; Central Virginia Mental Health Clinics; Central Virginia Mental Retardation Services; Information and Referral Center of Central Virginia; Sheltered Workshop of Lynchburg, Inc.; Florence Crittenton Services of Lynchburg, Inc.; Lynchburg Redevelopment and Housing Authority (tenant councils); Young Women's Christian Association; and Alcoholic Rehabilitation Center of Central Virginia, Inc.

All of the aforementioned agencies will submit names for both potential client and agency representatives on the Client Committee with the following exceptions: Florence Crittenton Home (Agency representative only), Sheltered Workshop of Lynchburg, Inc. (agency representative only); and Family Service of Central Virginia (Client representative and possibly an agency representative.)

The Lynchburg Department of Welfare has recommended the name of a potential Board member and/or Client Committee representative: The Appomattox County Welfare Department has provided the names of two individuals for a position on the Board or on the Client Committee. The Campbell County Department of Welfare has been contacted and a potential name will be presented to the Board for consid-

eration. We are in the process of contacting Amherst County Department of Welfare.

We are still in the process of contacting interested agencies and individuals. If you need specific names for potential members of the Board of Directors or the Client Committee, please let me know.

Sincerely,

J. GORMAN ROSENBERGER, Jr.

FEBRUARY 23, 1978.

Mr. WALLACE CLAIR,
Central Virginia Commission on Aging,
Lynchburg, Va.

DEAR MR. CLAIR: I appreciate very much the assistance which you have provided in submitting names of potential Board members and/or Client Committee members. I have contacted each person, whose name you submitted, except for Annie Bradley and Jennie Coleman (we are still trying to contact them). The response of all the persons contacted has been positive.

We are still awaiting a decision from the Legal Services Corporation on our proposal. If the proposal is approved, I believe that we shall be able to begin operation rather promptly because of the assistance of you and others who have provided the names of interested individuals.

Thank you again for help.

Sincerely,

J. GORMAN ROSENBERGER, Jr.

LEGAL SERVICES CORPORATION,
Washington, D.C., March 15, 1978.

Mr. J. GORMAN ROSENBERGER, Jr.,
Legal Aid Society of Greater Lynchburg,
Lynchburg, Va.

DEAR GORMAN: Many thanks for all your help yesterday. I am most appreciative. All good wishes.

Cordially,

THOMAS EHRLICH.

LEGAL SERVICES CORPORATION,
Washington, D.C., March 15, 1978.

Mr. DAVID T. PETTY, Jr.,
Kizer, Phillips & Petty,
Lynchburg, Va.

DEAR MR. PETTY: Many thanks to you and your colleagues for meeting with me yesterday afternoon. I know how much you and they care about legal services for the poor, as evidenced by the efforts of the Lynchburg Legal Aid Society over the years.

I personally came away from our meeting with a strong sense that we can all work together toward our common aims.

With all good wishes.

Cordially,

THOMAS EHRLICH.

LEGAL SERVICES CORPORATION,
Washington, D.C., March 15, 1978.

Mr. JAMES E. GHEE,
Farmville, Va.

DEAR MR. GHEE: I am most grateful for the time and efforts of you and Mr. Mangum yesterday, and look forward to working with you in the future.

Cordially,

THOMAS EHRLICH.

LEGAL SERVICES CORPORATIONS,
Washington, D.C., March 15, 1978.

Mr. KENNETH S. WHITE,
Edmunds, Williams, Robertson, Sackett, Baldwin & Graves,
Lynchburg, Va.

DEAR MR. WHITE: I am particularly grateful for your thoughtful comments at our meeting.

Naturally, whatever you can do to help in our efforts will be most appreciated.
Cordially,

THOMAS EHRLICH.

THE LEGAL AID SOCIETY OF GREATER LYNCHBURG,
Lynchburg, Va., March 17, 1978.

Mr. THOMAS EHRLICH,
President, Legal Services Corporation,
Washington, D.C.

DEAR TOM: It was a pleasure to meet with you on Tuesday, March 14, 1978, to discuss the proposals of the Legal Aid Society of Greater Lynchburg and the Virginia Legal Aid Society, as well as the recommendations of the Regional Director in regard to the said proposals.

Enclosed you will find a response to the recommendations of the Regional Director concerning the proposals of the LASGL and VLAS. Our Board and staff are most anxious to have the opportunity to implement the proposal submitted by LASGL.

An enormous good faith effort has been made by numerous interested individuals to present a strong viable proposal for the provision of legal services in the Central Virginia area. We request and urge you to not only study carefully the enclosed response but to also study our proposal submitted on January 31, 1978, with attachments. Both the LASGL proposal and the VLAS proposal can be approved without harm to either program and with substantial benefits to the citizens of the Central Virginia area.

We ask that after you make your study of the options available, that you act favorably on the proposal of the Legal Aid Society of Greater Lynchburg. I would appreciate your sending to me a written copy of your decision.

Thank you very much for your consideration.

Sincerely,

J. GORMAN ROSENBERGER, Jr.

Enclosure.

RESPONSE TO RECOMMENDATIONS OF REGIONAL DIRECTOR, LEGAL SERVICES CORPORATION (ARLINGTON OFFICE), FEBRUARY 24, 1978, CONCERNING PROPOSALS SUBMITTED BY LEGAL AID SOCIETY OF GREATER LYNCHBURG AND VIRGINIA LEGAL AID SOCIETY

GEOGRAPHIC AREA

On February 24, 1978, the Regional Director of the LSC recommended that the proposal of the Virginia Legal Aid Society (VLAS) be funded to serve 23 jurisdictions in the State of Virginia. All of the areas included in the VLAS proposal have no existing legal aid organization except Lynchburg and Campbell County. The Legal Aid Society of Greater Lynchburg presently serves and has been serving Campbell County and Lynchburg for more than 5 years.

The original proposal submitted by the VLAS included thirty-four (34) jurisdictions to be served. The Regional Director, however, recommended that 11 of the original 34 jurisdictions be deleted from the service area (the poor population of the deleted area constituted 41 percent of the total poor population of the original proposal). None of the 11 jurisdictions so removed have an existing legal aid society. Yet three Central Virginia areas (Lynchburg, Campbell, and Appomattox) remain a part of the VLAS service area, even though the LASGL is serving the City of Lynchburg and Campbell County.

Many jurisdictions in Virginia have no existing legal aid organizations serving their poor people. Certainly, priority should be given to providing legal services for the indigent in areas where no such services exist rather than in areas where such services are presently available and have been so for several years. More specifically, an anomaly exists with respect to 3 of the 11 jurisdictions removed from the VLAS proposal by the Regional Director. The areas of Grayson, Carroll, and Galax, each removed from the VLAS proposal by the LSC, have a combined poor population of 9,751. As can be seen on the enclosed map, Grayson, Carroll, and Galax are

now surrounded by three separate legal aid societies, including the proposed VLAS, and are not covered by any of the said societies. Not only have other jurisdictions in Virginia having no legal aid societies been excluded by the LSC from participation in the VLAS program, but the LSC has excluded and isolated Carroll, Grayson and Galax from legal aid services.

Efficiency, effectiveness and concern for the delivery of legal services to areas having no such services would require the inclusion of the areas of Grayson, Carroll, and Galax in the VLAS proposal prior to the inclusion of Lynchburg, Campbell and Appomattox. In the jurisdictions of Galax, Grayson, and Carroll, it is not a question of expertise, quality control, or careers for attorneys, but rather a question of providing any legal services to the poor in those areas.

It appears that the priorities used in excluding certain areas from the VLAS proposal are wanting. Priority should have already been given to the three isolated, unserved areas of Grayson, Carroll, and Galax in the contiguous VLAS service area before including areas presently served by a legal aid society.

PHILOSOPHY

The total poor population in the area proposed to be served by the VLAS is 107,990 persons according to the 1970 census. The proposed service area of the LASGL has a poor population of 18,708 according to the 1970 census (and a poor population of 19,718 according to the updated 1976 figures). Since funding of either (or both) proposals is based on the total poor population in the areas to be served, the VLAS would be funded in the amount of \$529,151 while the LASGL would be funded in the amount of \$91,669.20. If both the VLAS proposal and the LASGL proposal are approved and funded, the VLAS would receive \$455,018.90 while the LASGL would receive \$91,669.20. If the 1976 updated population figures are used, LASGL should receive \$96,618.20.

The recommendations of the LSC reveal an intense concern for specialization, expertise, quality control, administration, careers, and recruitment in the program of the VLAS. The recommendations of the Regional Director state, in part: "To fund the LASGL . . . would confront the program and its clients with major hurdles in developing and utilizing administrative and practice of law resources minimally essential to the competent representation of clients in many matters and promote incomplete, routine delivery of legal services." (Page Six)

The philosophy of the Regional Director being that only through a large program such as the VLAS can clients receive competent representation and complete routine delivery of legal services without major hurdles.

The regional office of the LSC in Arlington, Virginia, has jurisdiction over the State of Virginia. It presently funds approximately eight legal services programs in Virginia. In reviewing the recommendations made by the Regional Director on February 24, 1978, concerning the VLAS and LASGL proposals, it is important to examine other legal services programs funded by the same LSC regional office in Arlington, to ascertain if a similar approach and philosophy in funding is utilized.

Five of the present legal services programs funded by LSC are located in the western, southern, central and northeastern parts of Virginia. Two additional LSC programs are located in the Tidewater area and one in the Richmond metropolitan area. The five non-Tidewater and non-Richmond programs are more similar to the LASGL proposal than those in Tidewater and Richmond in terms of geographic location and population. The Tidewater area and Richmond area are both, of course, densely populated, urbanized, natural cohesive areas in the State.

The following data gives the name of the legal aid program, the jurisdictions served, and the total population and poor population according to the 1970 census figures:

	<i>Total population</i>	<i>Poor population</i>
1. The Fredericksburg Area Legal Aid Society, Inc.:		
Fredericksburg	14,450	1,547
Caroline	13,925	3,254
King George	8,039	1,079
Spotsylvania	16,424	2,599
Stafford	24,587	2,622
Total	77,425	11,101
2. The Legal Aid Society of New River Valley, Inc.:		
Giles	16,741	3,257
Pulaski	29,564	4,067
Floyd	9,775	1,989

	<i>Total population</i>	<i>Poor population</i>
2. The Legal Aid Society of New River Valley, Inc.—Con't		
Montgomery	47,157	5,906
Radford	11,596	943
Total	114,833	16,162
3. The Smyth-Bland Legal Aid Society:		
Bland	5,423	1,059
Wythe	22,139	3,956
Smyth	31,349	5,480
Washington	40,835	8,973
Total	99,746	19,468
4. The Charlottesville-Albemarle Legal Aid Society:		
Charlottesville	38,880	6,198
Albemarle	37,780	5,829
Green	5,248	1,177
Fluvana	7,621	2,336
Nelson	11,702	3,968
Total	101,231	19,508
5. The Legal Aid Society, of Roanoke Valley:		
Botetourt	18,193	2,472
Craig	3,524	739
Bedford (city and county)	32,739	5,844
Salem	21,982	1,549
Franklin	26,858	5,187
Roanoke County	67,339	4,715
Roanoke City	92,115	13,582
Total	262,750	34,088
6. The proposed area to be served by the Legal Aid Society of Greater Lynchburg:		
Lynchburg	54,083	7,710
Campbell	43,319	5,329
Amherst	26,072	3,579
Appomattox	9,784	2,090
Total	133,258	18,708
It should be noted that the above figures for Lynchburg, Campbell, Amherst, and Appomattox have had a substan- tial change since the 1970 census because of an annexation suit and an increase in population. The updated population figures as of July 1, 1976 (from the Central Virginia Plan- ning District Commission) are as follows:		
Lynchburg	65,500	8,827
Campbell	42,300	4,951
Amherst	27,700	3,890
Appomattox	11,200	2,050
Total	146,700	19,718
7. The proposed area to be served by the Virginia Legal Aid Society:		
Greensville	9,604	3,539
Brunswick	16,172	4,934
Sussex	11,464	3,544
Dinwiddie	25,046	3,858
Mecklenburg	29,426	9,037
Halifax	30,076	9,558
Lunenburg	11,687	3,635
Prince Edward	14,379	3,658
Nottoway	14,260	3,326
Amelia	7,592	2,165
Buckingham	10,597	3,612

7. The proposed area to be served by the Virginia Legal Aid Society—Continued

	<i>Total population</i>	<i>Poor population</i>
Pittsylvania	58,789	14,457
Henry	50,901	6,098
Patrick	15,282	3,028
Cumberland	6,179	2,378
Charlotte	11,551	3,474
Danville	46,391	7,217
Emporia	5,300	1,404
Martinsville	19,653	2,430
South Boston	6,889	1,509
Lynchburg	54,083	7,710
Campbell	43,319	5,329
Appomattox	9,784	2,090
Total	508,424	107,990

The Peninsula Legal Aid Center, the Tidewater Legal Aid Society, Inc. and the Neighborhood Legal Aid Society, Inc. serve two of the major urban areas in Virginia (the Richmond metropolitan area and the Tidewater area). The Neighborhood Legal Aid Society and Peninsula Legal Aid Society serve some adjacent rural counties but the bulk of the areas served by the aforementioned programs are large cities and surrounding suburban areas. The five existing LSC programs noted on the attached map reflect a greater similarity to the Central Virginia area and the Southside area than do the urbanized programs of Richmond and Tidewater.

The number of jurisdictions proposed to be served by the LASGL is similar to every other LSC program in the State of Virginia. The number of jurisdictions proposed to be served by the VLAS is overwhelming when compared to other LSC programs in Virginia. The number of poor people in the service area of the LASGL is larger than two LSC programs (the Fredericksburg Area Legal Aid Society and the Legal Aid Society of New River Valley); approximately the same as two additional programs funded by LSC (Smyth-Bland Legal Aid Society and Charlottesville-Albemarle Legal Aid Society); and within a reasonable range of two other LSC programs (Legal Aid Society of Roanoke Valley and Peninsula Legal Aid Society). The only LSC programs which serve a substantially larger number of poor people are the Tidewater Legal Aid Society, Inc. and the Neighborhood Legal Aid Society of Richmond, both of which serve a highly urbanized, densely populated area (unlike the vast majority of LSC programs in Virginia).

The VLAS, however, proposes to serve an extensive geographic area containing more poor people than any other LSC program in the contiguous jurisdictions of Virginia. In fact, the VLAS proposal will serve more poor people than the combined poor population of five LSC funded programs in Virginia (i.e. Fredericksburg Area Legal Aid Society, Inc.; the Legal Aid Society of New River Valley, Inc.; the Smyth-Bland Legal Aid Society; the Charlottesville-Albemarle Legal Aid Society, Inc.; and the Legal Aid Society of Roanoke Valley).

Not only is the funding proposed for the VLAS a mammoth undertaking but is novel and experimental in Virginia for the geographic area covered and poor people included therein. The philosophy espoused in the recommendations of the LSC of February 24, 1978, concerning large programs contradicts its own past and present practices of funding programs which cover manageable cohesive areas within the State of Virginia. One need only look at the enclosed map to see the contiguous areas served by separate LSC programs covering natural geographic areas having a common community interest.

And whatever future plans may be in the making for Grayson, Carroll, and Galax, it is fantastic that these three unserved areas were simply discarded from the VLAS proposal while Lynchburg, Campbell and Appomattox were retained as a part thereof.

If the proposal of the LASGL is approved by the LSC, then it will be entirely consistent with the funding of every other LSC legal services program in the State of Virginia. If, as the Regional Director stated in his recommendations, the funding of the LASGL would confront the program and its clients with major hurdles in providing the resources minimally essential to competent representation of clients and would promote incomplete routine delivery of legal services, then the vast majority, if not all, of the LSC funded programs in Virginia are confronted with these very same major hurdles referred to. By concluding that such major hurdles would exist under the LASGL proposal, the LSC has also implicated most, if not all,

of the programs which are regularly funded in this State by LSC. It appears that if there are hurdles to be confronted in the LASGL proposal, they will certainly be no greater than those hurdles facing the other LSC funded programs in Virginia.

After reading the recommendations of the Regional Director of the LSC not one major or even potential hurdle is mentioned in regard to the VLAS proposal. And yet the colossal area covered by the VLAS in addition to the 107,990 poor persons living therein is so incomparable to any other LSC program in the State of Virginia that it must be classified as experimental. The novelty of the program alone will surely create hurdles unknown to any other program in this State.

The lack of any discussion in the recommendations of the problems of manageability of the larger VLAS program and of any other types of problems which this novel program may experience indicates an "advocate" position on the part of LSC for the VLAS proposal.

CENTRAL OFFICE

The proposal of the VLAS addresses the location of a central office in a thorough manner (pages seven, eight and nine). After discussing the "advantages" of having the central office located in Richmond, Virginia, and citing a precedent therefor, the proposal dismisses Lynchburg and Danville as possible sites for the central office: "However, the only other practical alternatives for a central office would appear to be Lynchburg (the largest city in the covered area) or Danville (the most geographically central city in the covered area). However, considering the transportation system in the state, the advantages of locating in either of these cities would appear to be negligible." (Page eight, VLAS proposal)

The recommendations of the Regional Director in November, 1977, concerning the VLAS proposal, which were sent to the LASGL, did not indicate any change in the location of the central office from Richmond to Lynchburg. On February 24, 1978, however, the Regional Director in his recommendations presented a Narrative Description of Program Operations of the VLAS. As a part of the Narrative Description of the VLAS proposal, it was stated that "The central office is to be in Lynchburg." In fact, a notice in the Federal Register of December 7, 1977, indicated that the VLAS would be in "Richmond, Va." The notice in the said Federal Register also invited interested persons to submit written comments or recommendations concerning the application of the VLAS. Having received a copy of the application of VLAS and having notice in the Federal Register of December 7, 1977, that the VLAS would be located in Richmond, Virginia, written comments and recommendations were submitted to the LSC on this basis.

If the VLAS proposal concerning the central office was amended, it was done so after November, 1977. No copy of any amendment to the VLAS proposal concerning the central office was ever made available to the LASGL. If no amendment was made to the VLAS proposal, then the regional office of the LSC changed the location of the central office subsequent to its approval of the Richmond location in November and December of 1977. Either an amendment was permitted to the VLAS proposal after the legal notice was published in the Federal Register on December 7, 1977, or the LSC reversed its own position on the location of the central office after learning of the desire of the LASGL to delay implementation of the grant as it related solely to Lynchburg, Campbell County and Appomattox County. In either case, the LSC placed itself in the role of advocate for the VLAS proposal by changing the site of the central office location from Richmond to Lynchburg.

It is astonishing how the advantages of locating the VLAS central office in Lynchburg went from "negligible" (page eight, VLAS proposal) to critical that the office be in Lynchburg. By all accounts Richmond was the choice for the central office in June, 1977, when the VLAS proposal was submitted; in November, 1977, when the Regional Director of the LSC made his recommendations; and on December 7, 1977, as indicated in the Federal Register. Not until sometime after the LASGL requested a delay in the implementation of the VLAS proposal as it related solely to Lynchburg, Campbell County and Appomattox County was there obviously a decision that the advantages of locating the central office in Lynchburg were more than "negligible."

It has been indicated that Lynchburg was always considered as the best site for the central office. This statement, however, conflicts with the VLAS proposal itself, the November 1977, recommendations of the Regional Director of LSC, and the notice in the Federal Register on December 7, 1977.

The central office for the LASGL has always been located in the City of Lynchburg, and, of course, would continue to be so located under its application to the LSC. By changing the location of the VLAS central office from Richmond to Lynchburg after December 7, 1977, the LSC was placing itself in a position where it might

possibly fund two programs (LASGL and VLAS) which had central offices in the same city. Such a course of action again indicates the advocate role played by the LSC in favor of the VLAS proposal.

LSC GUIDELINES

The recommendations of the LSC of February 24, 1978, state, in part F: I have no doubt that pursuant to the Legal Services Corporation Act and the "Guidelines for the Selection of Applicants to Serve New Areas", the VLAS is the appropriate recipient for Fiscal Year 1978 "Expansion of Access, New" funds for the provision of legal services to poor persons in the City of Lynchburg, and the Counties of Campbell and Appomattox. Just as surely the LASGL cannot be funded consistent with the "Guidelines" or the statutory requirement that the Corporation "insure that grants and contracts are made so as to provide the most economical and effective delivery of legal services to persons in both urban and rural areas".

In reviewing the Guidelines of the LSC, it appears that they have been selectively applied to the proposals of the LASGL and VLAS in the recommendations.

For example, the Guidelines of LSC state: The Congress approved an appropriation of \$205 million. While this amount is less than the \$217 million requested, it nevertheless will make available a significant amount of funds for expanding access through existing programs and for establishing new programs in previously unserved areas.

As pointed out herein, several unserved areas were eliminated from the VLAS proposal while Lynchburg, Campbell, and Appomattox were retained. In addition, the LSC has isolated and surrounded Grayson, Carroll and Galax with legal aid societies, but no legal services.

The LSC Guidelines also state: Priority will be given to those states and areas within States where the largest number of poor persons reside in areas without access to legal services programs.

The recommendations of LSC eliminate 41 percent of the poor people from the VLAS proposal while retaining Lynchburg, Campbell, and Appomattox, which have less than 9 percent of the poor population of the original proposal and less than 14 percent of the recommended proposal of VLAS. In addition, Lynchburg and Campbell are presently served by LASGL.

MERGER

A "merger" of the LASGL with VLAS is discussed in the recommendations of the Regional Director. The proposed merger contemplates that the LASGL will relinquish any local funding which it may have available, relinquish assets of the Society, relinquish its name, relinquish its good will, and relinquish any rights which it may have to an additional jurisdiction.

The LASGL feels very strongly that it can best utilize its assets, goodwill, name, etc. by building upon those resources rather than relinquishing them. Such a building process can be realized by the expansion of the LASGL program and by the expansion of the area served through LSC funding. Such a program would encompass the natural geographic area of Central Virginia. The LASGL desires to expand on its assets rather than to have them absorbed by another entity.

EXISTING PROGRAM

The Legal Aid Society of Greater Lynchburg opened its doors to serve the poor people of Lynchburg and Campbell County in 1972, after much work and effort on the part of many concerned individuals. The Society has been supported by groups, agencies and interested individuals, including the governing bodies of both jurisdictions, which have repeatedly funded the organization. The LASGL is accepted in the Central Virginia area.

In 1974, Congress established the Legal Services Corporation and has provided funding for it since that time. It is doubtful, however, that Congress ever intended for its appropriations to LSC to be used to establish new programs to compete with and/or eliminate existing viable legal services programs. This is especially true when there are numerous areas in the State of Virginia which have no existing legal aid programs.

The practical effect of including Lynchburg, Campbell County and Appomattox County in the VLAS proposal will be the end of the LASGL. It is a harsh result to effectively terminate an ongoing organization such as the LASGL. This, however, does not have to be the consequence.

The LSC has two proposals (LASGL and VLAS) for funding now pending. Both proposals can be funded without causing hardship to either one. The LASGL has never objected to the VLAS covering the Southside area of Virginia. The LASGL

would very much like to build upon its ongoing operation and to expand into Appomattox and Amherst counties. To sacrifice the LASGL so that it will become a part of the largest legal services program ever proposed in this State would be a fatal mistake. Existing legal aid programs should be built upon and enhanced, not extinguished. The funding of the LASGL proposal would be entirely consistent with the funding of the vast majority of LSC legal services programs in Virginia.

LEGAL SERVICES CORPORATION,
Washington, D.C., May 26, 1978.

Hon. ROBERT W. KASTENMEIER,
Rayburn House Office Building,
Washington, D.C.

DEAR CONGRESSMAN KASTENMEIER: I understand that your subcommittee hearing last Monday provided the members with an opportunity to consider the Legal Services Corporation's decision to award expansion funds to the Virginia Legal Aid Society.

As I have stated to you before, it is my firm belief that the award of funds to VLAS, made after careful and extensive review both at the regional office and here at headquarters, represents a sound decision to ensure that LSC funds are directed to a grantee that can provide effective and economical legal services for the low-income residents of central and southside Virginia. At the same time, we have no doubt that our procedures and processes regarding expansion grants, as well as all our operations, are subject to improvement. We continually evaluate our policies, and make the adjustments and changes necessary to ultimately improve the legal assistance that is available to the poor. We welcome all efforts to assist us.

The hearings requested by Congressman Butler did, I believe, indicate a need to continue to improve our efforts to give additional notice of the availability of funds for the provision of legal services to all interested parties. We have specifically instructed our regional directors to make every effort to involve non-LSC funded programs in our expansion plans, and to provide specific notice to those programs, whenever expansion funds might be available to their areas. This is, of course, in addition to the specific notice to the Governor, State bar and principal local bar association made pursuant to our Act, as well as the regular review and evaluations conducted for any expansion activity. We have also asked the regional directors to redouble their effort to coordinate with the private bar. Unfortunately, as you know, there have been some instances when the local bar has not shown any interest in free legal services and has indeed opposed service for the poor in their community.

I sincerely hope that the examination of our efforts in Lynchburg before your subcommittee will lead to the cooperation necessary to enable the consolidation of VLAS and the Legal Aid Society of Greater Lynchburg provided for in our original grant award. Such cooperation will certainly enhance the provision of legal assistance in the area and allow all concerned to proceed with our primary task—ensuring the poor equal access to our system of justice. Your assistance in facilitating this cooperation will be greatly appreciated.

Cordially,

THOMAS EHRLICH.

THE LEGAL AID SOCIETY OF GREATER LYNCHBURG,
Lynchburg, Va., May 31, 1978.

Hon. M. CALDWELL BUTLER,
Cannon House Office Building,
Washington, D.C.

DEAR MR. BUTLER: Enclosed herein please find the response to the statements of Junius Haskins, Jr. and Wallace Clair to the House Judiciary Subcommittee on Courts, Civil Liberties, and the Administration of Justice on behalf of the Legal Aid Society of Greater Lynchburg. It would be appreciated if the said response can be made a part of the record of the Subcommittee.

During the hearing on May 22, 1978, I and Dave Petty addressed the statement submitted to the Subcommittee by Mr. J. T. Tokarz. On pages 92-93 of the transcript of the May 22, 1978 hearing (lines 1668-1688), Mr. Petty testified as to the meetings attended by me and other staff members concerning Title XX funding. On page 96-97 of the transcript (lines 1754-1759) I testified to the meeting held by Mr. Tokarz in Richmond which I attended, and which part was omitted from the

statement submitted by Mr. Tokarz. In addition no member of the Board of Directors of LASGL recalls any statements being made by either Mr. Tokarz or Mr. Levy on December 14, 1976, concerning another program being established in the Central Virginia area (page two, paragraph two of Mr. Tokarz's statement). If you believe that a reply would be helpful to the statement of Mr. Tokarz, we shall submit one promptly.

Thank you for your assistance.

Sincerely,

J. GORMAN ROSENBERGER, Jr.

RESPONSE TO STATEMENTS OF JUNIUS HASKINS, JR. AND WALLACE CLAIR ON
BEHALF OF THE LEGAL AID SOCIETY OF GREATER LYNCHBURG

The statement of Junius Haskins, Jr., dated May 19, 1978, to the House Judiciary Subcommittee on Courts, Civil Liberties, and the Administration of Justice addresses a period of time from 1973 to approximately 1975.

The statement refers to "complicated forms" which clients were required to fill out. A copy of the application form used by the Legal Aid Society of Greater Lynchburg during the period between 1973 and 1975 is attached as Exhibit A. A copy of the present application form used by LASGL is attached as Exhibit B. Both the old and new application consists of one page with two sides. The information requested on the form is the basic data needed to determine eligibility of the applicant and a brief statement of the applicant's problem(s).

Every application is filled out by the applicant, to the extent possible, and then reviewed with the applicant by a staff member. Any applicant who is unable to fill out the application has it completed by a staff member.

The statement expressed concern over the sensitivity or the lack thereof which was extended to applicants and clients by LASGL. Attached is a letter from Natalie L. Cooper who volunteered her services to the LASGL from April, 1977 to December, 1977. The letter is important in that it was written prior to any question of sensitivity being raised, it was written by someone in a position to determine the treatment received by clients; it was written by a volunteer who received no compensation for her services; and it was written subsequent to her departure from LASGL. A review of the letters of support for the LASGL proposal indicate that the clients served by LASGL were well treated.

The statement indicates that LASGL did not handle cases involving unemployment insurance, landlords and tenants and employment discrimination.

LASGL has been involved in several unemployment insurance cases. Appeals have been taken from the Deputy Director's decisions to a Hearing Officer. Appeals have been taken from the Hearing Officers decision to the Virginia Employment Commission in Richmond. In one case the decision of the Virginia Employment Commission was appealed by filing suit in the Lynchburg Circuit Court against the Virginia Employment Commission and a large industrial employer in Lynchburg.

LASGL has represented clients in landlord-tenant cases.

LASGL has not brought a suit for employment discrimination. It has advised clients who believe that they have such a suit to file claims with EEOC. In addition it has given clients the names of two attorneys in the area who bring employment discrimination suits. There is no policy of LASGL against bringing discrimination suits. Because of the budget of LASGL, the time and work involved in such a suit would result in a large number of other clients being denied service. Discrimination suits were planned to be brought, consistent with the rules, regulations, and guidelines of LSC, if the LASGL proposal had been granted.

The statement concludes that additional legal services are needed in the Lynchburg area. LASGL submitted an application to LSC to fund a legal services program for the Central Virginia area which would provide the full range of legal services under the LSC Act, rules, regulations, and guidelines.

APPLICATION FOR LEGAL AID

Applicant _____ Sex _____ Age _____

Address _____ How Long _____

Telephone _____ Previous Address _____

MARITAL STATUS: Single ☐ Married ☐ (Spouse's Name _____)Divorced ☐ Widowed ☐ Separated ☐ (Date _____)

DEPENDENTS:

Children (names and ages) _____

With Whom Living _____ Where _____

Other Dependents (ages and relationship) _____

EMPLOYMENT:

Employer (last employer if unemployed) _____

Position _____ Employer's Address _____

Education _____ Other Training _____

Spouse's Employer _____ Position _____

FINANCIAL STATUS:

Wages: (Husband \$ _____ per _____) (Wife \$ _____ per _____) \$ _____ PER _____

Welfare \$ _____ PER _____

Aid to Dependent Children \$ _____ PER _____

Social Security or Retirement Benefits \$ _____ PER _____

Unemployment Benefits \$ _____ PER _____

Pension \$ _____ PER _____

Insurance \$ _____ PER _____

Child Support from Husband \$ _____ PER _____

Alimony \$ _____ PER _____

Other; Source: \$ _____ PER _____

TOTAL \$ _____ PER _____

(TOTAL ANNUAL INCOME \$ _____)

EXHIBIT A

ASSETS:

Motor Vehicles	Equity \$	
Appliances and Furniture	Equity \$	
Home: Real Property	Equity \$	
Savings Account	Checking Account	Cash
Other Assets (kind and value)		

CURRENT LIABILITIES (per month):

Rent \$	Name of Landlord		
Vehicle Payments \$	Appliance Payments \$	Furniture Payments \$	
Alimony; Child Support \$	Other Payments:	\$	\$

Source of Referral

Previous Visits to Office

Private Attorney Consulted, if any

Other Pending Legal Matters

Unusual Family or Financial Problem

TYPE OF CASE:

CRIMINAL: Charge	Date of Alleged Offense
Date of Trial (or other appearance)	
Before Whom	
CIVIL: Dispute With Whom	
Subject of Dispute	
Attorney(s) Involved	
Legal Action Already Taken (if any)	

CERTIFICATION

I certify that I do not have the means to arrange for payment to an attorney for the legal aid which I have requested, and that I have given a complete and accurate account of my financial status.

I authorize the Legal Aid Association to verify any of the statements which I have made on this application.

DATE

APPLICANT'S SIGNATURE

INTERVIEWER

APPLICATION FOR LEGAL AID

 County _____
 Number _____
 Date _____

Applicant _____ Social Sec. No. _____ Age _____ Sex _____

Address _____ Zip _____ How Long (at this address) _____

Telephone _____ Previous Address _____

 MARITAL STATUS: Single ☐ Married ☐ (Spouse's Name _____ and address _____)

 Divorced ☐ Widowed ☐ Separated ☐

 DEPENDENTS: _____ Date married: _____ Date Separated: _____
 (number)

Children (names and ages) _____

With Whom are children living: _____ Where _____

 Other Dependents (ages and relationship) _____ Started _____
 (Past 12 months

 (EMPLOYMENT: Where employed Now: _____ When: _____
 and present position _____ Date Started: _____ mo/day/yr

Past Employment: _____ Date Started: _____ Left when: _____ mo/day/yr

_____ Date Started: _____ Left when: _____ mo/day/yr

Education _____ Other Training _____

Spouse's Employer and address: _____ Position _____

 FINANCIAL STATUS: (before taxes or deductions: INCOME
 Wages: (Husband \$ _____ per _____) (Wife \$ _____ per _____) . \$ _____ PER

 Welfare (when started _____) . \$ _____ PER
 and Case Worker: _____

Aid to Dependent Children \$ _____ PER

Social Security or Retirement Benefits (when started _____) . \$ _____ PER

Unemployment Benefits \$ _____ PER

Pension (when started _____) . \$ _____ PER

Insurance \$ _____ PER

Child Support from Husband . . . (when started _____) . \$ _____ PER

Alimony \$ _____ PER

Other: Source. _____ \$ _____ PER

TOTAL \$ _____ PER

(TOTAL ANNUAL INCOME \$ _____)

EXHIBIT B

ASSETS:

Motor Vehicles _____ Equity \$ _____
 Appliances and Furniture _____ Equity \$ _____
 Home: Real Property _____ Equity \$ _____
 Savings Account _____ Checking Account _____ Cash _____
 Other Assets (kind and value) _____

CURRENT LIABILITIES (per month):

Rent \$ _____ Name of Landlord and address: _____
 Vehicle Payments \$ _____ Appliance Payments \$ _____ Furniture Payments \$ _____
 Alimony; Child Support \$ _____ Other Payments: _____ \$ _____

Source of Referral _____

Previous Visits to Office _____

Private Attorney Consulted, if any _____

Other Pending Legal Matters _____

Unusual Family or Financial Problem _____

DIVORCE ONLY:

Last marital domicile; (City or County).....

Defendant's residence (City or County).....

Complainant's residence (City or County).....

Civil Dispute With Whom _____

Subject of Dispute _____

Court Date: _____

CERTIFICATION

I certify that I do not have the means to arrange for payment to an attorney for the legal aid which I have requested, and that I have given a complete and accurate account of my financial status.

I authorize the Legal Aid Association to verify any of the statements which I have made on this application.

DATE

INTERVIEWER

APPLICANT'S SIGNATURE

LYNCHBURG, VA., January 28, 1978.

HON. CALDWELL BUTLER,
House of Representatives,
Washington, D.C.

DEAR MR. BUTLER: It is my understanding that efforts are underway to expand legal aid services to the citizens of the Central Virginia Area. I support such expansion provided the quality of services presently being offered is not diluted.

It was my good fortune to work as a volunteer in the office of the Greater Lynchburg Legal Aid office during most of 1977. The services which I observed being rendered to those in need were, at all times, highly commendable. The attitude of total and oftentimes extraordinary devotion to the cause of serving individuals was impressive. The lawyers and staff are dedicated and compassionate people for whom I have great admiration.

I am concerned that the expansion of the area to be served not get too large; that it be limited to the City of Lynchburg and the counties of Campbell, Amherst, and Appomattox. The Greater Lynchburg Legal Aid Office has a good working relationship with all the related social service agencies in this community. I believe this benefits their clients in a number of ways. Clients benefit, too, if the governing board is composed of representatives who live and work in their communities and who share the same community concerns.

I ask that these factors be considered in determining the area to be covered by the Legal Services Corporation.

Respectfully yours,

NATALIE L. COOPER
Mrs. Kenneth Cooper

RESPONSE

The statement of Mr. Wallace Clair submitted to the House Judiciary Subcommittee on Courts, Civil Liberties, and the Administration of Justice addresses the question of legal services for the elderly.

Mr. Clair questions the availability of statistics to the Commission on Aging from LASGL in 1973 and 1974 in reference to legal services for the elderly. The reason that the statistics which Mrs. Dowdy requested were not provided is because such statistics did not exist. Although "age" is listed on the LASGL application, no continuing record is maintained as to the number of individuals served by age or age group.

LASGL served young people, middle-aged people and old people without discrimination based on age. Legal services have been provided to elderly people in connection with wills, estate tax, contracts, social security benefits, medicaid and medicare benefits, housing, divorces, alimony, custody cases, etc. One of the most interesting cases which LASGL has handled for an elderly person involved the custody of an eleven year old boy. LASGL represented a 77-year-old woman (aunt by marriage of the child) against the natural mother, who had other children in her custody. Mrs. Marion Baker did a superb job in convincing the Court that the 77-year-old woman was quite capable, physically and mentally, of caring for the child.

LASGL has always referred numerous clients to the Commission on Aging for assistance.

Mr. Clair indicated in February, 1978, that he supported the LASGL proposal which had been submitted to LSC on January 31, 1978. The Commission on Aging was an agency proposed to select a member of the Board of Directors in the LASGL proposal. Mr. Clair submitted the name of a potential Board member to LASGL and also submitted numerous names of individuals for the Client Committee proposed in the LASGL application.

Memorandum

LEGAL SERVICES CORPORATION

Date: June 5, 1978.

To: The Files—Legal Services Corporation.

From: Stephen S. Walters, Office of General Counsel, L.S.C.

Subject: Expansion Grant to Serve Central and Southside Virginia.

The Arlington Regional Office of the Legal Services Corporation—which has responsibility for Corporation grants in the states of Virginia, West Virginia, Ohio, and Michigan—began operations in November 1976. The Director of that office was Walker T. Thompson, an experienced legal services attorney who had been Director of the Employment Law Project in New York. Among Mr. Thompson's first tasks was to make recommendations for 1977 expansion grants in his region according to

the Corporation's minimum access plan. At the same time, he began to lay the groundwork for expansion in 1978. These efforts were particularly important to Virginia, because less than 20% of that state's poor persons lived in areas served by Corporation-funded programs.

Accordingly, Mr. Thompson contacted persons and organizations interested in the delivery of legal services to poor people in Virginia. In the fall of 1976, he attended the annual meeting of the Virginia Legal Aid Association (VLAA), a statewide organization of all Virginia legal aid programs, whether funded by the Corporation or other sources. Notice of that meeting, and of Mr. Thompson's participation, was sent to all VLAA members. Mr. Thompson also attended the regularly scheduled Board meeting of the Legal Services Corporation of Virginia (LSCV), an organization established by the Virginia State Bar to administer Title XX funds to legal aid programs and to coordinate legal aid activities in the state.

In early 1977 Mr. Thompson and members of his staff continued to consult with representatives of VLAA and VLSC, and to discuss expansion possibilities with other interested persons. The results or these discussions appeared to be widely circulated. The February issue of the Virginia Bar News, for example, contained an article by the Director of VLSC describing generally the Corporation's expansion plans and pointing out that it was theoretically possible for the Corporation to place a program in an area without the knowledge or approval of the local bar. The article urged local organizations to work with the Corporation, and suggested that they contact VLSC for further information. A similar article was published in the Virginia Bar Association Newsletter.

As a result of these activities, the Regional Office staff began in February 1977 to prepare a mailing list of persons and organizations throughout its Region that had expressed interest in or requested information about the Corporation's expansion plans. The staff also prepared an extensive socio-economic and demographic analysis of the areas in Virginia that were not covered by Corporation-funded programs. This analysis suggested that, based on the number of unserved poor people, portions of central, southside and southwest Virginia should be among the Corporation's priorities for 1978 expansion. The results of this analysis were presented to and discussed by participants at a March 1977 meeting sponsored by VLAA and the Chairman of the Virginia State Bar's Committee on Legal Aid.

On April 25 and 26, 1977, a meeting was held in Arlington to discuss expansion in each of the states for which the Arlington Regional Office had responsibility. Invited to this meeting from Virginia were the directors of all Corporation-funded programs and the persons and organizations that had expressed an interest in the Corporation's activities, including representatives of VLAA and VLSC. Participants discussed the demographic analysis prepared by the Regional Office Staff, and confirmed the priorities suggested by that analysis. Mr. Thompson generally described the procedures he intended to follow in developing his recommendations for 1978 expansion, and asked all persons interested in applying for expansion funds to submit preliminary applications to his office by June 1977.

Several proposals for the new Virginia legal services programs were received in June. The most ambitious was submitted by the newly-incorporated Virginia Legal Aid Society (VLAS), which proposed a rural program to serve all of southwest and southside, and portions of central Virginia. Although submitted on behalf of the Virginia NAACP, several persons with substantial legal services experience had participated in the preparation of the VLAS proposal. The budget had been written by John Levy, a Professor of Law at the College of William and Mary and a former legal services project director in Virginia.¹ Consulting services had been provided by Anita Henry, Director of Neighborhood Legal Services in Richmond and a person with broad contacts in the Virginia client community.²

The Legal Aid Society of Petersburg, Virginia, a small legal aid program supported by local funds, was the only other organization that applied for a grant to serve any part of southwest, southside or central Virginia. The Petersburg proposal included twelve counties, several of which were included within the proposed VLAS service area. The two other non-Corporation funded programs that were operating in the area—Concerned Citizens for Justice in Wise, Virginia, and the Legal Aid Society of Greater Lynchburg—did not submit proposals.

The next several months were devoted to reviewing the expansion proposals that had been received by the Arlington Regional Office. The staff was favorably im-

¹ Mr. Levy was also a board member of Peninsula Legal Aid Center in Hampton, Virginia, and later became a member of the original and transition boards of VLAS.

² The Neighborhood Legal Services office in Richmond was virtually next door to the office of the Virginia NAACP. In addition to participating in the development of the proposal, Ms. Henry and two of her staff attorneys performed the ministerial function of signing the VLAS Articles of Incorporation. The Articles were also notarized in that office.

pressed with the VLAS proposal during the course of this initial review.³ Although ambitious in scope, the proposal appeared well thought out and to have support in the proposed service area. VLAS also proposed to serve a large rural area that had been identified as having a critical need for legal services, making it consistent with the guidelines for expansion promulgated by the Corporation's headquarters office.⁴ In contrast, the Petersburg proposal covered an area of lesser priority, and appeared simply to have been copied from the VLAS application.

In August 1977, the Corporation's appropriation for Fiscal Year 1978 was announced. At the same time, the Arlington Regional Office was informed that the Corporation had decided to fund new programs at a level of \$4.90 per poor person in 1978. This decision virtually eliminated the Petersburg proposal from serious consideration, because its initial funding level would be so low that it could not operate effectively. For the same reason, the staff of the Regional Office determined that the entire VLAS proposal could not be funded. A tentative decision was made, therefore, to consider VLAS for funding in southside and central Virginia only; the portion of its proposed funding area in southwest Virginia would be eliminated.

The 1977 annual meeting of VLAA was held on October 14, 1977, in Charlottesville. As part of the agenda for that meeting, a member of the Regional Office staff appeared and discussed the Corporation's plans for 1978 expansion in Virginia. She announced that the office had tentatively decided to recommend that VLAS be funded to serve a 20 county, 6 city area in southside and central Virginia, and named each of the cities and counties.⁵ As with previous meetings, the notice and agenda for this meeting had been mailed to all VLAA members.

Despite their favorable impression of the VLAS proposal and the fact that it had been reduced from its original size, the Regional Office staff recognized that considerable work was required to transform that proposal into an operating legal services program. Expansion grants could, moreover, become effective on January 1, 1978, and the staff believed it important that clients begin receiving service at the earliest possible time. Accordingly, the Regional Office retained two consultants to address issues affecting the feasibility of the VLAS proposal.

The persons retained were Henry Woodward, Director of the Corporation-funded program in Roanoke, Virginia, and Anita Henry, the Director of the Richmond, Virginia program. Both had considerable experience with legal services in Virginia, and their programs enjoyed good reputations throughout the state. It was believed that these qualities would enable them to perform the necessary work in the shortest possible time.

Walker Thompson and a member of his staff met with Ms. Henry and Mr. Woodward on October 6, 1977, to discuss their assignments. Mr. Thompson stated that the consultants were to visit each of the counties and cities within the proposed VLAS service area. They were to make contact with bar associations, community groups, and client organizations to discuss the proposed program. Specific issues to be addressed included suitable locations for branch offices in light of transportation

³ As the review progressed, questions occasionally arose about particular proposals. Members of the staff may, therefore, have contacted persons involved with VLAS, including Mr. Levy and Ms. Henry, during this time.

⁴ Those guidelines were originally promulgated for 1977 expansion and were as follows:
1. Priority was to be given to those states and areas within states where the largest number of poor persons resided in areas without access to legal services programs.

2. Within any given state priority was to be given to funding through administrative units that would provide services to the largest number of eligible clients (including those in rural areas) in the most efficient manner. The willingness of applicants to become a part of such administrative units would be an important factor in funding new programs.

3. Where the provision of service in new areas could be accomplished as well by expanding geographic coverage of existing LSC programs of proven effectiveness, these existing LSC programs were to be given priority.

4. The grantee would be required to limit its geographical area so that it could provide services at the level of \$4.90 per poor person residing in the service area.

5. Outside funds available to an applicant were to be considered by the Corporation in defining the areas to be served by expansion funds; appropriate adjustments were to be made in the level of funding where outside funding plus proposed Corporation funding would allow a program to operate at a level in excess of the intermediate level to two attorneys per 10,000 poor persons, defined by the Corporation as "minimum access" to legal services.

As noted in the text, the decision to retain a \$4.90 initial funding level for 1978 was communicated to the Regional Office in August 1977. On August 29, 1977, Mr. Thompson sent a memorandum to all Corporation project directors, persons who had submitted proposals, and other interested persons in his region, to which he attached a copy of the guidelines. The memorandum stated that a number of expansion proposals had been received, and invited all interested persons to comment.

⁵ Cities and counties are distinct political entities in Virginia. In order to accurately describe a program's service area, therefore, both the cities and counties must be enumerated.

facilities and the actual location of clients, development of a foundation for client participation in the program, a brief survey of client needs in the proposed area of service, and recommendations regarding actions to shorten the required start-up time. The consultants were instructed to submit a report on their activities to the Regional Office.

Mr. Thompson was also concerned about the ability of VLAS to assemble a board of directors to govern the program in accordance with the Corporation's Regulations. It was agreed at the October 6 meeting that a transition board should be formed to comply with the Regulations, but that its members would be replaced by locally-selected directors once that became feasible. Because of her prior involvement and familiarity with VLAS, Ms. Henry was assigned to provide technical assistance to the three VLAS board members on these matters.

Mr. Thompson had originally contemplated that the consultants would divide the work along functional lines. Following the October 6 meeting, however, the consultants decided that they could be more effective if they divided the assignments geographically: Ms. Henry was assigned 15 counties and cities in the eastern portion of the proposed service area; Mr. Woodward covered the western counties and cities.^{*} In addition, Ms. Henry was to retain her responsibility for advising the VLAS Board of Directors. This arrangement was acceptable to the Regional Office, and was followed in the ensuing months.

During October, November, and December 1977, the consultants spent in excess of two hundred hours on their assignments. Ms. Henry met on several occasions with the VLAS Board to assist them in establishing a transition Board and advise them on other matters.[†] Ms. Henry and Mr. Woodward visited each of the counties and cities that they had been assigned, established contact with local bar associations and community groups, held public meetings at which the need for a legal services program was discussed, and examined the feasibility of the VLAS proposal in light of local conditions. As a result of this work, two additional counties and one city were dropped from the proposed VLAS service area, and the program's proposed administrative office was moved from Richmond to Lynchburg.[‡] Most important, substantial contacts were made in the proposed service area and the foundation for an effective legal services program was laid.

It was clear to Mr. Thompson that, subject to whatever modifications were indicated by the reports of the consultants, the VLAS proposal was suitable for funding. He began, therefore, to prepare his final recommendation for use of expansion funds. Under the procedures followed by the Corporation, a Regional Director's recommendation is transmitted to the Office of Field Services. At the same time, a notice is published in the Federal Register stating that the Corporation is considering making a new grant, and a second notice is sent to the governor and bar association of the state in which the grant is to be made. Such notice must be published at least 30 days prior to the date that the grant is signed by the President of the Corporation and goes into effect. Pursuant to this procedure, and in order to ensure that clients would begin receiving service at the earliest practicable time, Mr. Thompson submitted his recommendation that VLAS be funded to the Corporation on November 28, 1977. The required notices were also sent at that time, and appeared in the December 7, 1977, Federal Register.

On November 28 Mr. Thompson received two telephone calls from Gorman Rosenberger, the director of the Legal Aid Society of Greater Lynchburg (LASGL). Mr. Rosenberger stated that Henry Woodward had visited Lynchburg five days previously, pursuant to his consulting agreement with the Corporation, and that LASGL had learned for the first time that the Corporation was considering funding VLAS to serve Lynchburg and Campbell County. Mr. Thompson was surprised that LASGL had not known of the Corporation's expansion plans, and expressed that surprise to Mr. Rosenberger. He stated that his recommendation to fund VLAS had been submitted to the Office of Field Services, but that LASGL would have 30 days in which to review the VLAS proposal and submit comments. A member of the

^{*} Mr. Woodward's assigned area included the city of Lynchburg and Campbell and Appomattox Counties. Ms. Henry never visited those areas during the course of her consulting contract, and her report did not discuss them.

[†] At the December 3, 1977, VLAS board meeting Ms. Henry was one of 12 persons selected to serve on the transition board of VLAS. Minutes of the December meeting reflecting this action were received by the Regional Office in mid-January 1978, as part of Ms. Henry's final report. Members of the Regional Office staff were not actually aware of Ms. Henry's selection until shortly before the first meeting of the VLAS transition board in April 1978.

[‡] Mr. Woodward actually recommended that the administrative office be placed in Danville. Mr. Thompson concluded, however, that Lynchburg's larger size and proximity to two major law schools made it a better location for coordinating support activities and hence a more logical site for the central office.

Regional Office staff, Margaret Poles, also agreed to attend a meeting of the LASGL Board of Directors on December 12 to discuss further the VLAS proposal.

Events moved swiftly following those initial conversations. On November 30, 1977, Henry Woodward returned to Lynchburg and met with Mr. Rosenberger and members of the LASGL Board of Directors to discuss the VLAS proposal. That evening Mr. Woodward appeared at a public meeting called for the same purpose. On December 6, 1977, Mr. Thompson sent to LASGL, at its request, a copy of the VLAS proposal, the Legal Services Corporation Act, Regulations, and expansion guidelines, and his recommendation to the Corporation that the proposal be funded. On December 12, Margaret Poles and Henry Woodward met with the LASGL Board of Directors to discuss the Corporation's guidelines for awarding expansion grants, the process for planning expansion in Virginia, and the Arlington Regional Office's recommendation to fund VLAS. Ms. Poles stressed again that LASGL should submit any comments it had on the VLAS proposal to the Corporation, and that those comments would be carefully considered. She also offered to send LASGL any further information it required.

Shortly before Ms. Poles' visit to Lynchburg, the Corporation received a written request from LASGL for an extension of time to allow it to comment on the VLAS proposal and to submit a proposal of its own. On December 16, 1977, Mr. Thompson wrote to LASGL that he would recommend against the extension because of the thorough planning process that had been conducted and because the delay would "inevitably postpone the delivery of legal services in areas which have in excess of 100,000 eligible clients."⁹ Subsequently Mr. Thompson met with the President of the Corporation, Thomas Ehrlich, and it was agreed that the extension should be granted. On December 19, 1977, Mr. Ehrlich informed LASGL that further action on the VLAS proposal would be postponed until January 31, 1978.

The Arlington Regional Office began taking steps to evaluate the anticipated LASGL proposal. Shortly after his initial contact with LASGL, Mr. Thompson had instructed his staff that the Lynchburg situation should not be discussed with Anita Henry. This precaution was probably unnecessary, because Ms. Henry had no responsibility for the Lynchburg area under her consulting arrangement with the Corporation. Given her prior relationship with VLAS, however, and particularly her role as technical advisor to the VLAS Board, Mr. Thompson believed his instruction was necessary to avoid even the appearance of conflict.¹⁰

After LASGL's request for an extension was granted, Mr. Thompson and Ms. Poles met with the three-member VLAS Board of Directors in Richmond, Virginia. Ms. Henry was not invited to this meeting. Mr. Thompson reported on the events to that point, and stated that an application from LASGL was expected. He stated that the proposal would be evaluated by his office, and that there was a real possibility that VLAS would not receive funding for the Lynchburg area. Thereafter, although VLAS sent to the Corporation a letter commenting on the LASGL proposal and its Board members telephoned from time-to-time to ascertain when the final recommendation would be made, representatives of the Arlington Regional Office had no further discussions with VLAS regarding the Lynchburg situation.

On December 22, 1977, Walker Thompson sent to LASGL a grant application and other information required for the preparation of an expansion proposal. Mr. Thompson's letter stated that the Arlington Regional Office would visit Lynchburg and interview LASGL staff during the coming month to provide a basis for considering the proposal. He concluded by offering to answer any questions that LASGL might have.

During the period January 3 to 5, 1978, Margaret Poles visited the Lynchburg area and interviewed more than twenty persons who had been recommended by a LASGL board member as being familiar with the program. Other information regarding the program was obtained in telephone conversations and correspondence with persons from the Lynchburg area, and from reviewing reports prepared by LASGL. On January 19, 1978, Mr. Thompson and two other persons from his office

⁹ As this quotation indicates, Mr. Thompson interpreted LASGL's request to require postponement of the entire VLAS proposal. Mr. Rosenberger corrected this impression by letter dated December 22, 1977, in which he made clear that LASGL objected to the funding of VLAS only for the city of Lynchburg and Campbell and Appomattox Counties. By that time, however, the extension had been granted and all funding for VLAS was delayed.

¹⁰ Mr. Woodward had no involvement with VLAS, and had not appeared at that organization's board meetings. His report, dated December 12, 1977, contained an objective presentation of the Lynchburg situation. He pointed out that, although LASGL was not well-regarded by its client community and the Lynchburg area was a logical part of a southern Virginia rural legal services program, VLAS could operate effectively without Lynchburg and it was possible to fund an adequate program to serve that area alone at \$7.00 per poor person. In all events, neither Mr. Woodward nor Ms. Henry participated in the Regional Office's analysis of the proposal from LASGL.

visited LASGL and interviewed its staff and members of its Board of Directors. During this visit Mr. Thompson also gave Mr. Rosenberger advice regarding the preparation of LASGL's proposal, and answered his questions concerning compliance with Corporation Regulations.¹¹

On January 31, 1978, LASGL delivered to the Arlington Regional Office an application for funding of a program to serve the city of Lynchburg and Campbell, Appomattox and Amherst counties. All of these areas except Amherst County were included in the VLAS proposal. LASGL also submitted its comments on the VLAS proposal and letters of support from officials, bar associations, and other persons in the area LASGL proposed to serve. The cover letter to this package explained that LASGL did not question the VLAS proposal insofar as it would provide service to 16 counties and four cities in southside Virginia; LASGL wished only to establish an independent program to serve a three-county area of central Virginia.

During the first two weeks of February 1978, the staff of the Arlington Regional Office analyzed the information that they had gathered and compared the competing proposals. On February 24, 1978, Mr. Thompson recommended that VLAS be funded for the entire 18 county, 5 city area. That recommendation, which was presented in a lengthy memorandum to the President of the Corporation and its Director of Field Services, was based on several factors:¹²

Given the small amount of funds available under the \$4.90 per poor person formula for the three-county LASGL proposal, it would not have sufficient resources to operate an effective program. At least one of the three attorneys would be required to devote a significant amount of time to administrative matters, and the program would have limited opportunities for specialization, back-up, quality control of legal work, and professional growth and development. These problems would not be present if Lynchburg were part of VLAS, which, even at the \$4.90 level, would have more than five times the resources of LASGL.

LASGL, although enjoying considerable official support, had been severely criticized by many members of the community as insensitive to the needs of clients and non-aggressive in pursuit of their interests. The Regional Office's evaluation of LASGL confirmed the latter opinion, and suggested that some LASGL staff members had little knowledge of many significant areas of poverty law.

LASGL had for some years remained isolated from other legal aid organizations in Virginia. It had not participated in any training sessions or other activities of VLAA, even though it was a member, and had virtually no contact with either the Virginia State Bar or VLSC. Indeed, in 1976, LASGL had declined the opportunity to more than double its budget with Title XX funds. This pattern of isolation could only compound the problems listed above.

For these reasons, Mr. Thompson concluded that LASGL could not be funded as an independent three-county program consistently with the Corporation's expansion guidelines and its statutory mandate to "insure that grants and contracts are made so as to provide the most economical and effective delivery of legal services to persons in both urban and rural areas."

Mr. Thompson recognized, however, that it was important to coordinate the efforts of VLAS and LASGL, both to pool their financial resources and to build upon the support from official sources that LASGL had received. He proposed, therefore, a series of special conditions designed to require cooperation between the two organizations. Under these conditions, VLAS would be required to explore the possibility of retaining the name of LASGL, to establish a local advisory board from Lynchburg and Campbell County, and to assume LASGL's commitment to serving Amherst County.

Mr. Thompson sent copies of his recommendation to LASGL to provide them the opportunity for comment. The Corporation's President reviewed those comments and Mr. Thompson's recommendation, and visited Lynchburg on March 14, 1978, to obtain further information. On March 30 he wrote a letter to the chairmen of LASGL and VLAS adopting Mr. Thompson's recommendation, including the special conditions to facilitate cooperation between the two programs. VLAS is now in operation with its central office located in Lynchburg. Several meetings have been

¹¹ On January 16, 1978, the Regional Office sent to the President of the Lynchburg Bar Association a notice that the Corporation was considering funding VLAS for his area. The notice was sent to comply with the Legal Services Corporation Act Amendments of 1977, which became effective on December 28, 1977, and required the Corporation to notify "the principal local bar associations . . . of any community, where legal assistance will be initiated," at least thirty days prior to approving a grant. 42 U.S.C. § 2996f(n), as amended, Pub. L. 95-222 (December 28, 1977). Such notices were sent as a matter of course in early 1978 for grants that had been announced pursuant to the previous law, but not implemented.

¹² The memorandum containing Mr. Thompson's analysis and recommendations was attached to his written testimony submitted during the recent oversight hearings on this issue.

held between the two programs to implement the special conditions on the VLAS grant.

VIRGINIA LEGAL AID SOCIETY, INC.,
Lynchburg, Va., June 26, 1978.

THOMAS EHRLICH,
President, Legal Services Corporation,
Washington, D.C.

DEAR MR. EHRLICH: Enclosed is the report on the good-faith efforts of the Virginia Legal Aid Society, Inc. to consolidate with the Legal Aid Society of Greater Lynchburg. The LASGL staff and office are slated to become part of VLAS on July 1, 1978, contingent on acceptance of this report by the Legal Services Corporation. Acceptance of this report will allow the expenditure of grant funds in the City of Lynchburg and Campbell and Appomattox Counties under the terms of Special Grant Condition No. 2 on the grant to VLAS from the LSC.

We would appreciate prompt action on this report, so that the transition between LASGL and VLAS be as orderly as possible. The efforts to bring about this transition culminated only this last week, and I am eager to move forward with our joint endeavors to provide high-quality legal services in this area.

Thank you in advance for your prompt consideration here and for all your past assistance, I am,

Very truly yours,

DAVID M. LEVY,
Executive Director.

[Enclosure—omitted; see Subcommittee files.]

CONGRESS OF THE UNITED STATES,
COMMITTEE ON THE JUDICIARY,
Washington, D.C., July 20, 1978.

Mr. WALKER THOMPSON,
Legal Services Corporation,
Arlington, Va.

DEAR MR. THOMPSON: Due to the time restraints on the Subcommittee when we conducted our oversight hearing on Legal Services Corporation in May, I was unable to ask all of the questions which I had concerning the expansion of legal services into the Lynchburg area. I would appreciate your answers to the enclosed list of questions. Unless otherwise indicated, I intend to make your responses part of the hearing record.

Also, I would very much appreciate an opportunity to review the files on this matter. If this is not possible, please advise accordingly. It is not my intention to comply in any way with the procedures set out by Tom Ehrlich's letter dated May 26, 1978 regarding access to Corporation files.

Sincerely,

M. CALDWELL BUTLER,
Member of Congress.

1. Would you provide the Subcommittee with the names and addresses of the people and organizations who sponsored and drafted the Virginia Legal Aid Society proposal?

2. In your testimony before the Subcommittee (at page 186) you indicated that you began to consider a new expansion program for Virginia in the fall of 1976. When did you first learn of the Virginia Legal Aid Society proposal?

When did you first communicate with any of the sponsors or drafters of the Virginia Legal Aid Society?

If so, who were they and how often did you communicate?

What was the nature of those communications?

Did you assist them in any way in drafting the Virginia Legal Aid Society proposal and, if so, what type of assistance did you provide?

Did you discuss or suggest persons who might be considered for Board membership or who would be the personnel operating the Virginia Legal Aid Society prior to or after the submission of its proposal?

3. When and why did you consider hiring consultants on the VLAS proposal?

Were written contracts used?

Were the consultants instructed in writing as to their purpose?

Was their consultation to be considered objective and independent?

How did you go about selecting the two consultants?

How many people did you consider and could you provide the Subcommittee with their names and addresses?

Did you use consultants on the proposal submitted by the Legal Aid Society of Greater Lynchburg? If not, why not?

Have consultants been used by you on other proposals?

Is there a Corporation policy with regard to the use of consultants; if so, what is that policy and how was it arrived at?

When Henry was hired by you as a consultant, were you aware that she was one of the founders of VLAS and that she signed their Articles of Incorporation?

When was Henry placed on the VLAS Board and by whom?

Was she a member of the VLAS Board when she was hired as a consultant?

What prompted you to issue your recommendation in favor of funding VLAS prior to receiving the final reports of your paid consultants?

When you made your decision to fund VLAS, were you aware that the Legal Aid Society of Greater Lynchburg was going to submit their proposal?

Did you follow the recommendations of Woodward?

If not, why not in each instance?

Did you request Woodward to determine if the LASGL was operating a token program?

4. Prior to the submission of its proposal on January 30, was LASGL ever looked at by you for the purposes of evaluating its existing program prior to replacing it with a new program?

According to my information, LASGL received notice of the existence of a VLAS proposal for the first time from your consultant, Mr. Woodward, on November 23, 1977. You made your final recommendation to fund VLAS on November 28, 1977. You had been aware of the possibility of replacing the LASGL program since the fall of 1977. What information did you have prior to your November 28 recommendation that led you to conclude that LASGL should be replaced? (The Woodward Report did not issue until December, 1977; Poles' report was not submitted until February, 1978, and that report was a response to LASGL's application filed January 30, 1978).

5. From the time VLAS submitted its proposal and that of the Legal Aid Society of Greater Lynchburg, a number of changes occurred in the VLAS plan to make it concur somewhat to the LASGL proposal. For example, did you decide to move the central office from Richmond to Lynchburg prior to or after the entry of LASGL into this matter?

If prior to, why wasn't it listed as a condition in your recommendations of November 28, 1977?

Did anyone investigate why Amherst County had not been included in the VLAS proposal?

Why was priority not given to funding programs in areas of Virginia which have no legal aid societies. In other words, why did you delete Galax, Carroll, and Grayson before deleting Lynchburg, Campbell and Appomattox?

What is the size of the Legal Services Corporation funded programs in Virginia other than those in the large metropolitan areas of Richmond and Tidewater?

Would you say that the LASGL proposal was more similar to the other non-metropolitan programs funded by Legal Services Corporation in Virginia than the VLAS proposal (in terms of area served and number of people)?

6. What was the exact date on which David Levy was selected as Acting Director of the Virginia Legal Aid Society?

Who did the selecting?

When was the Corporation made aware of the selection and did it participate in that selection?

Who selected the VLAS Board? Are there any Board members who are not from the VLAS area to be served? If so, why?

Do other Legal Services Corporation funded programs in Virginia have Boards composed of members who are not from the area served?

7. Do you have a policy concerning a program's willingness to file class action suits?

The LASGL had a policy against the acceptance of class action suits. What weight, if any, was given to that particular LASGL policy in making your decision not to fund LASGL?

LEGAL SERVICES CORPORATION,
Washington, D.C., August 28, 1978.

Hon. M. CALDWELL BUTLER,
U.S. House of Representatives,
Washington, D.C.

DEAR CONGRESSMAN BUTLER: Enclosed are the answers to the questions you submitted concerning the Corporation's 1978 expansion grant to the Virginia Legal Aid Society. Please feel free to submit the questions and answers for the record of the oversight hearings held last May.

We will, of course, provide any additional information regarding this matter, if you wish. In accordance with Chairman Kastenmeier's request, you or another representative of the Subcommittee may also inspect our Regional Office files concerning the Virginia Legal Aid Society grant. Please contact Stephen S. Walters, our Deputy General Counsel, if you wish to arrange for such an inspection.

If we can be of further help, please let me know.

With all best wishes.

Cordially,

THOMAS EHRLICH.

Enclosure.

The Legal Services Corporation submits the following answers to the questions propounded by the Honorable M. Caldwell Butler, to supplement the record of the oversight hearings conducted on May 28, 1978, by the House Judiciary Committee, Subcommittee on Courts, Civil Liberties, and the Administration of Justice. For purposes of brevity and clarity, these answers often refer to materials previously provided to the Subcommittee and to other materials included in the record of the hearing. A memorandum prepared by the Corporation's Deputy General Counsel and given to the Subcommittee staff, is cited as "Walters Memorandum". A copy of that memorandum is attached, and the Corporation requests that it be included in the record. Citations to the hearing transcript are designated as "Hearing Tr." The written statements of various persons submitted for the records are identified by author.

Certain acronyms will also be used. The National Association for the Advancement of Colored People will be referred to as NAACP. The Virginia Legal Aid Society will be referred to as VLAS. The Legal Aid Society of Greater Lynchburg sometimes will be referred to as LASGL.

Question 1. Would you provide the Subcommittee with the names and addresses of the people and organizations who sponsored and drafted the Virginia Legal Aid Society proposal?

Answer. The application was submitted to the Corporation in June 1977, by the Virginia State Conference NAACP, which was also the sponsor. The persons listed as directors were: James Ghee, 211 Main Street, Farmville, VA; Jack Gravely, 2803 E. Grace Street, Richmond, VA; and Douglas Caston, 132 Main Street, Wise, VA.

It is the Corporation's understanding that the following persons provided consulting or other services in connection with the proposal: John Levy, Professor of Law, College of William and Mary, Williamsburg, VA; and Anita Henry, Director, Neighborhood Legal Aid Society, Richmond, VA.

A revision of the proposal was submitted in November 1977. It was similar in substance to the initial version, but was necessary because of changes in application forms developed by the Corporation's Office of Field Services. The revised proposal was also submitted and sponsored by the Virginia State Conference NAACP. Anita Henry signed the covering letter.

Question 2(a). In your testimony before the Subcommittee (at page 186) you indicated that you began to consider a new expansion program for Virginia in the fall of 1976. When did you first learn of the Virginia Legal Aid Society proposal?

Answer: A draft of the VLAS proposal, dated May 25, 1977, was sent to a member of the Regional Office staff, and received by her shortly after that time. The Regional Office had no prior knowledge of the existence of VLAS, or of its intention to apply for Corporation funds. The proposal itself was received in early June 1977.

Question 2(b). When did you first communicate with any of the sponsors or drafters of the Virginia Legal Aid Society?

Question 2(c). If so, who were they and how often did you communicate?

Question 2(d). What was the nature of those communications?

Answer. See answer to question 2(a). As stated at page 5 of the Walters Memorandum, members of the Regional Office staff had discussions with the sponsors of the VLAS proposal during the summer of 1977. The precise number of such discussions cannot be determined. The discussions involved specific questions regarding the VLAS proposal, such as the effect of the Corporation's decision to fund new pro-

grams at a level of \$4.90 per poor person rather than \$7.00, as initially expected. See Statement of Walker Thompson at 6-7.

As indicated in Mr. Thompson's testimony before the Subcommittee, Hearing Tr. at 192-95, beginning in late 1976 he had general conservations regarding legal services and Corporation expansion plans in Virginia with some of the persons who eventually worked on the VLAS proposal. Again, the precise number of such conversations cannot be determined.

Question 2(e). Did you assist them in any way in drafting the Virginia Legal Aid Society proposal, and if so, what type of assistance did you provide?

Answer. No.

Question 2(f). Did you discuss or suggest persons who might be considered for Board membership or who would be the personnel operating the Virginia Legal Aid Society prior to or after the submission of its proposal?

Answer. No.

Question 3(a). When and why did you consider hiring consultants on the VLAS proposal?

Answer. As stated at pages 7-10 of the Walters Memorandum, the Regional Office decided to retain consultants with respect to the VLAS proposal in late September or early October 1977. The consultants were retained to perform developmental tasks in the proposed VLAS service area, and to make recommendations regarding matters such as location of branch offices in light of transportation facilities and the actual location of clients. The purpose of retaining the consultants was not to determine whether VLAS should be funded at all—the proposal had already been evaluated favorably in light of the Corporation's expansion priorities and had no serious competitors at that time. Rather, the consultants were retained to investigate a number of matters in an effort to shorten the start-up time of the new program. When a competing proposal was submitted by the Legal Aid Society of Greater Lynchburg, the necessary field work, technical assistance, and recommendations were provided by staff of the Arlington Regional Office. See Walters Memorandum at 14-18.

Question 3(b). Were written contracts used?

Answer. The consultants signed a standard agreement used by the Corporation's Office of Field Services.

Question 3(c). Were the consultants instructed in writing as to their purpose?

Answer. No. The oral instructions given to the consultants are described in the Walters Memorandum at pages 8-10. Anita Henry confirmed those instructions in a subsequent memorandum to the Regional Office.

Question 3(d). Was their consultation to be considered objective and independent?

Answer. Yes. The Corporation believes that Ms. Henry and Mr. Woodward were objective and independent in performing the developmental work for which they were retained. See answer to 3(a).

Question 3(e). How did you go about selecting the two consultants?

Answer. The Arlington Regional Office staff relied on its own knowledge of qualified persons within the legal services community and recommendations from other Regional Offices. Candidates were contacted by telephone, told the nature of the assignment, and asked if they would be available. Given the nature of the assignment and the press of time, it was eventually decided to retain consultants from Virginia who were familiar with the demands placed on Corporation grantees. For those reasons, and based on their knowledge of and reputation in legal services in Virginia, Anita Henry and Henry Woodward were selected. See Walters Memorandum at 8.

Question 3(f). How many people did you consider and could you provide the Subcommittee with their names and addresses?

Answer. Four persons were considered. They are: Michael Fox, Evergreen Legal Services, Seattle, WA; Chuck Vaseley, Arlington County Legal Aid Society, Arlington, Va; Anita Henry, Neighborhood Legal Aid Society, Richmond, Va; and Henry Woodward, Legal Aid Society of Roanoke Valley, Roanoke, Va.

Question 3(g). Did you use consultants on the proposal submitted by the Legal Aid Society of Greater Lynchburg? If not, why not?

Answer. No. Once the Legal Aid Society of Greater Lynchburg submitted its proposal, it was necessary to weigh the relative merits of two applicants for Corporation funds to serve a particular area. That was an entirely different matter than the developmental work for which the consultants had been retained, and it was thought inappropriate for consultants to make such decisions. The Regional Office staff evaluated LASGL and its proposal, and provided some technical assistance in drafting that proposal. Ms. Henry and Mr. Woodward played no role whatever in that process. See Walters Memorandum at 13-16.

Question 3(h). Have consultants been used by you on other proposals?

Answer. Not by the Arlington Regional Office.

Question 3(i). Is there a Corporation policy with regard to the use of consultants, if so, what is that policy and how was it arrived at?

Answer. The Corporation has no specific policy regarding the use of consultants in situations such as this. The Corporation does, of course, have a variety of personnel policies, including some that relate to consultants.

Question 3(j). When Henry was hired by you as a consultant, were you aware that she was one of the founders of VLAS and that she signed their Articles of Incorporation?

Answer. Yes. Given the nature of Ms. Henry's assignment, however, it was not believed to be inappropriate to hire her as a consultant. To the contrary, Ms. Henry's reputation and contacts in Virginia, particularly with the client community, made her uniquely qualified for the developmental work that was contemplated. When it became known that LASGL would submit a competing application to that of VLAS, Mr. Thompson instructed the Regional Office staff not to discuss that matter with Ms. Henry. This precaution was probably unnecessary, because Ms. Henry had no responsibility under her consulting contract for the geographic area that included Lynchburg. The precaution was taken to avoid even the appearance of conflict. See Walters Memorandum at 9, 13-14.

Question 3(k). When was Henry placed on the VLAS Board and by whom?

Answer. Apparently Ms. Henry was selected to serve on the VLAS transition Board of Directors at a meeting of the original VLAS Board on December 3, 1977. Minutes of that meeting were received by the Regional Office in mid-January 1978, as part of Ms. Henry's final report. Members of the Regional Office staff did not know of Ms. Henry's selection before that time. See Walters Memorandum at 10.

Question 3(l). Was she a member of the VLAS Board when she was hired as a consultant?

Answer. No. See answer to 3(k).

Question 3(m). What prompted you to issue your recommendation in favor of funding VLAS prior to receiving the final reports of your paid consultants?

Answer. VLAS proposed to serve a high-priority area in Virginia, and its proposal was consistent with the other criteria for expansion grants established by the Corporation. The proposal appeared to be well thought-out, and to have considerable support in the proposed service area. Only one other even partially-competing proposal had been received—from a small program in Petersburg—and it was eliminated from serious consideration early in the review process. Members of the Regional Office staff spoke frequently with the consultants, and were aware of their preliminary recommendations. In all events, the consultants had been retained to perform certain developmental work that would shorten the start-up time of VLAS, not to determine whether that program should be funded at all. The Regional Office also knew that the Legal Services Corporation Act provides for a 30-day comment period during which interested parties may present their views about a proposal for Corporation funding and the Corporation may decide whether to accept the Regional Office recommendation. For all of these reasons, the recommendation that VLAS be funded was submitted to the Office of Field Services at the end of November 1977. See Walters Memorandum at 5-11; Hearing Tr. at 158, 182.

Question 3(n). When you made your decision to fund VLAS, were you aware that the Legal Aid Society of Greater Lynchburg was going to submit their proposal?

Answer. No. The Regional Office's recommendation was submitted on November 28, 1977. At that time, no one in the Corporation had been told that LASGL intended to submit a proposal. Indeed, the Corporation's understanding is that LASGL made the decision to submit a proposal in early December 1977. See Walters Memorandum at 12-13; Hearing Tr. at 16-20. The decision to fund VLAS was made by the Corporation's President in late March 1978.

Question 3(o). Did you follow the recommendations of Woodward?

Answer. Yes, except in one respect.

Question 3(p). If not, why not in each instance?

Answer. Mr. Woodward recommended that the VLAS central office be moved Richmond to Danville. Mr. Thompson agreed that the central office should be moved, but concluded that Lynchburg's larger size and proximity to two major law schools made it a better location for coordinating support activities and hence a more logical site for the central office. See Walters Memorandum at 10; Hearing Tr. at 169-171. A plan submitted by VLAS in early February 1978, supported that conclusion.

Question 3(q). Did you request Woodward to determine if the LASGL was operating a token program?

Answer. No.

Question 4(a). Prior to the submission of its proposal on January 30, was LASGL ever looked at by you for the purposes of evaluating its existing program prior to replacing it with a new program?

Answer. In the view of the Corporation, the issue has never been whether LASGL should be "replaced". Rather, the Corporation views its obligation as determining the most appropriate grantee for legal services funds. During the period January 3-5, 1978, a member of the Regional Office staff visited the Lynchburg area and interviewed more than 20 persons who had been recommended by a LASGL Board member as being familiar with the program. Other information regarding the program was obtained in telephone conversations and correspondence with persons from the Lynchburg area, and from reviewing reports prepared by LASGL. On January 19, 1978, Mr. Thompson and two other persons from his office visited LASGL and interviewed its staff and members of its Board of Directors. The information gathered through these efforts was considered by the Regional Office staff in formulating its recommendations.

Question 4(b). According to my information, LASGL received notice of the existence of a VLAS proposal for the first time from your consultant, Mr. Woodward, on November 23, 1977. You made your final recommendation to fund VLAS on November 28, 1977. You had been aware of the possibility of replacing the LASGL program since the fall of 1977. What information did you have prior to your November 28 recommendation that lead you to conclude that LASGL should be replaced? (The Woodward Report did not issue until December, 1977; Pole's report was not submitted until February, 1978, and that report was a response to LASGL's application filed January 30, 1978).

Answer. As stated in the answer to 4(a), the Corporation did not consider the question to be whether LASGL should be "replaced". There are communities throughout the country in which programs funded by the Corporation and programs funded by other sources work closely together. See Hearing Tr. at 181.

Prior to November 28, 1977, the Regional Office knew that VLAS proposed to serve an area of Virginia that was a high-priority for expansion, that its proposal met the other expansion criteria established by the Corporation, that the proposal appeared to be well thought out, and that it appeared to have considerable support in the proposed service area. The Regional Office also knew that LASGL had indicated no interest in Corporation funds, despite the extensive efforts to publicize the fact that such funds were available. See Walters Memorandum at 2-4, 7; Hearing Tr. at 98, 138, 186-188; Statement of J. T. Tokarz at 2. On this basis, VLAS appeared to be the most appropriate grantee.

Question 5(a). From the time VLAS submitted its proposal and that of the Legal Aid Society of Greater Lynchburg, a number of changes occurred in the VLAS plan to make it concur somewhat to the LASGL proposal. For example, did you decide to move the central office from Richmond to Lynchburg prior to or after the entry of LASGL into this matter?

Answer. In August 1977, the Regional Office was informed that new programs were to be funded at a level of \$4.90 per poor person rather than \$7.00, as the Regional Office initially expected. It was apparent at that time that the resources available to VLAS would not be sufficient to permit it to maintain a separate office in Richmond. Henry Woodward was requested to address that issue in his report and VLAS was directed to submit a plan for relocation of its central office. The Regional Office's decision on the location of the central office was made in mid-February 1978, and is reflected in the memorandum to Thomas Ehrlich attached to Mr. Thompson's hearing statement.

Question 5(b). If prior to, why wasn't it listed as a condition in your recommendations of November 28, 1977?

Answer. See answer to 5(a). Because the final decision on the location of the VLAS central office was not made until mid-February 1978, a special condition addressing that matter was not included in the November 28, 1977, recommendation.

Question 5(c). Did anyone investigate why Amherst County had not been included in the VLAS proposal?

Answer. No.

Question 5(d). Why was priority not given to funding programs in areas of Virginia which have no legal aid societies. In other words, why did you delete Galax, Carroll, and Grayson before deleting Lynchburg, Campbell and Appomattox?

Answer. As a result of the Corporation's decision to fund new programs at \$4.90 per poor person, virtually all of southwest Virginia was dropped from the proposed VLAS service area. See Walters Memorandum at 7. Based on his investigation, Mr.

Woodward concluded that geographical considerations, transportation routes, and the small size of the poor population would make extremely difficult for VLAS to serve Galax, Carroll County, and Grayson County at the lower level of funding. He recommended that those areas also be dropped from the proposed service area, and that recommendation as adopted by the Regional Office.

Question 5(e). What is the size of the Legal Services Corporation funded programs in Virginia other than those in the large metropolitan areas of Richmond and Tidewater?

Answer. Fredericksburg Area Legal Aid Society, Fredericksburg, Va.:

- i. Areas served: four counties and one independent city.
- ii. Poor persons population 11,101
- iii. Fiscal year 1978 funding level \$78,303

Legal Aid Society of New River Valley, Christiansburg, Va.:

- i. Areas served: four counties and one independent city.
- ii. Poor persons population 16,162
- iii. Fiscal year 1978 funding level \$113,140

Peninsula Legal Aid Center, Hampton, Va.:

- i. Areas served: four counties and one independent city.
- ii. Poor persons population 52,905
- iii. Fiscal year 1978 funding level \$370,335

Neighborhood Legal Aid Society, Richmond, Va.:

- i. Areas served: eight counties and three independent cities.
- ii. Poor persons population 81,442
- iii. Fiscal year 1978 funding level \$575,836

Virginia Legal Aid Society, Richmond, Va.:

- i. Areas served: eighteen counties and five independent cities.
- ii. Poor persons population 107,990
- iii. Fiscal year 1978 funding level \$529,151

Smyth-Bland Legal Aid Society, Marion, Va.:

- i. Areas served: four counties and one independent city.
- ii. Poor persons population 22,869
- iii. Fiscal year 1978 funding level \$160,083

Charlottesville-Albermarle Legal Aid Society, Charlottesville, Va.:

- i. Areas served: five counties and one independent city.
- ii. Poor persons population 23,518
- iii. Fiscal year 1978 funding level \$164,632

Legal Aid Society of Roanoke Valley, Roanoke, Va.:

- i. Areas served: six counties; and five independent cities.
- ii. Poor persons population 38,106
- iii. Fiscal year 1978 funding level \$279,653

Tidewater Legal Aid Society, Norfolk, Va.:

- i. Areas served: two independent cities.
- ii. Poor persons population 74,008.
- iii. Fiscal year 1978 Funding Level \$454,927

Legal Aid Society of Greater Lynchburg, Lynchburg, Va.

- i. Proposed service area: three counties and 1 independent city.
- ii. Poor persons population 18,708.

Excluding the Neighborhood Legal Aid Society in Richmond and the Tidewater Legal Aid Society in Norfolk, the average number of counties and independent cities served by Corporation-funded programs in Virginia is seven. The average number of poor persons served is 27,400.

Question 5(f). Would you say that the LASGL proposal was more similar to the other non-metropolitan programs funded by Legal Services Corporation in Virginia than the VLAS proposal (in terms of area served and number of people)?

Answer. No. All Corporation grantees in Virginia serve more jurisdictions than the program proposed by LASGL. Peninsula Legal Aid Center in Hampton and Legal Aid Society of Roanoke Valley are comparable in size to Neighborhood Legal Services in Richmond and Tidewater Legal Aid Society. Charlottesville-Albermarle Legal Aid in Charlottesville and Smyth-Bland Legal Aid Society in Marion are approximately twenty-five percent larger than the proposed LASGL program. Legal Aid Society of New River Valley in Christiansburg and Fredericksburg Area Legal Aid Society in Fredericksburg serve slightly fewer poor people than LASGL proposed to do, but each serves one more jurisdiction. The smaller programs each contemplate expansion or merger with larger programs in the future.

Question 6(a). What was the exact date on which David Levy was selected as Acting Director of the Virginia Legal Aid Society?

Answer. The Corporation does not know the exact date. A letter from the original VLAS Board of Directors to Mr. Thompson, dated March 8, 1978, stated that Mr. Levy had been hired as Acting Director.

Question 6(b). Who did the selecting?

Answer. The Board of Directors of VLAS.

Question 6(c). When was the Corporation made aware of the selection and did it participate in that selection?

Answer. See answer to 6(a). The Corporation approved the ultimate selection as required by a special condition on the grant. Similar conditions are placed on the initial grants of all new programs. The Corporation did not participate in the process of selecting a director for VLAS.

Question 6(d). Who selected the VLAS Board? Are there any Board members who are not from the VLAS area to be served? If so, why?

Answer. The members of the original VLAS Board were named in its Articles of Incorporation. John Levy was later named to a vacancy on the original Board, and presumably was selected by the remaining two members. The transition Board of VLAS was selected by the original three-person Board at a meeting on December 3, 1977. That Board met for the first time in April 1978. It contains two persons—John Levy and Anita Henry—who are not from the area served. The Corporation does not know why those persons were selected. The transition Board is to be replaced by locally-selected directors when that becomes feasible. Walters Memorandum at 9.

Question 6(e). Do other Legal Services Corporation funded programs in Virginia have Boards composed of members who are not from the area served?

Answer. Yes. Tidewater Legal Aid Society, Norfolk, VA.

Question 7(a). Do you have a policy concerning a program's willingness to file class action suits?

Answer. The Corporation's policy concerning class-action suits is contained in Part 1617 of its Regulations, 45 C.F.R. Section 1617. A copy of that Regulation is attached to these answers. The Comment to the Regulation observes: Neither the Act or relevant American Bar Association ethics opinions permits a governing body to review class action litigation on a case-by-case basis. What is contemplated is the establishment by a governing body of broad policies that are consistent with its resource allocation priorities, and with the need to protect the right of an individual client and similarly situated clients. The class action policy adopted by a governing body should not interfere with an attorney's independent judgment or duty to a client.

Because a class action may be a useful way to avoid duplicative and repetitive actions, the mandate of Section 1007(a)(3) that legal assistance be rendered in 'the most economical and effective' manner, as well as the prohibition in Section 1007(a)(1) against impairing the integrity of the adversary process, preclude a recipient from adopting policies that would prevent class actions in appropriate cases. (Citations omitted).

Question 7(b). The LASGL had a policy against the acceptance of class action suits. What weight, if any, was given to that particular LASGL policy in making your decision not to fund LASGL?

Answer. LASGL's absolute ban on class action suits without regard to the interests of clients, was inconsistent with Part 1617 of the Regulations and the concerns expressed in the comment to the Regulation quoted above. The policy was given some, but not dispositive, weight.

TITLE 45.—PUBLIC WELFARE

CHAPTER XVI.—LEGAL SERVICES CORPORATION

PART 1617—CLASS ACTIONS

The Legal Services Corporation was established pursuant to the Legal Services Corporation Act of 1974, Pub. L. 93-355, 88 Stat. 378, 42 U.S.C. 2996-2996f (the "Act"). Section 1006(d)(5) of the Act, 42 U.S.C. 2996(d)(5), requires class action litigation undertaken by a recipient to be approved by the project director in accordance with policies established by the governing board. Section 1007(a)(3), 42 U.S.C. 2996(a)(3), requires the Corporation to insure that legal assistance is rendered in the most economical and effective manner, and Section 1007(a)(1), 42 U.S.C. 2996(a)(1), requires the Corporation to protect against impairing the integrity of the adversary process.

On September 23, 1976 (41 FR 41722) a proposed regulation on class actions was published. Interested persons were given until October 26, 1976 to submit comments on the proposed regulation. All comments received were given full consideration.

The following issues were among those considered before adoption of the final regulation.

COMMENT

Section 1006(D)(5) of the Act requires class action litigation undertaken by a recipient to be approved by the project director in accordance with policies established by the governing board. The legislative history of the section makes it clear that Congress did not intend to discourage use of class actions, but did want to insure that class action litigation would be undertaken according to standards established by persons accountable for the overall performance of the legal services program.

Neither the Act nor relevant American Bar Association Ethics Opinions permits a governing body to review class action litigation on a case-by-case basis. What is contemplated is the establishment by a governing body of broad policies that are consistent with its resource allocation priorities, and with the need to protect the rights of an individual client and similarly situated clients. The class action policy adopted by a governing body should not interfere with an attorney's independent judgment or duty to a client. See Sections 1006(a)(3); 1007(a)(1); ABA Committee on Ethics and Professional Responsibility, Formal Opinion 334.

Because a class action may be a useful way of avoiding duplicative and repetitive actions, the mandate of Section 1007(a)(3) that legal assistance be rendered in "the most economical and effective" manner, as well as the prohibition in Section 1007(a)(1) against impairing the integrity of the adversary process, preclude a recipient from adopting policies that would prevent class actions in appropriate cases.

Section:

1617.1 Purpose.

1617.2 Definition.

1617.3 Approval Required.

1617.4 Standards for Approval.

Authority: Sections 1006(d)(5), 1007(a)(1), 1007(a)(3), 1008(e) (42 U.S.C. 2996e(d)(5), 2996f(a)(1), 2996(a)(3), 2996g(e)).

Sec. 1617.1 Purpose. This Part is intended to promote responsible, efficient, and effective use of Corporation resources. It does not apply to any case or matter in which assistance is not being rendered with funds provided under the Act.

Sec. 1617.2 Definition. "Class action" means a class suit, class action appeal, or *amicus curiae* class action, as defined by statute or the rules of civil procedure of the court in which an action is filed.

Sec. 1617.3 Approval Required. No class action may be undertaken by a staff attorney without the express approval of the director of the recipient, acting in accordance with policies established by the governing board.

Sec. 1617.4 Standards for Approval. The governing body of a recipient shall adopt policies to guide the director of the recipient in determining whether to approve class action litigation.

The policies adopted:

(a) shall not prohibit class action litigation when appropriate to provide effective representation to a client or a group of similarly situated clients;

(b) shall not require case-by-case approval of class action litigation by the governing body;

(c) shall give appropriate consideration to priorities in resource allocation adopted by the governing body, or required by the Act or Corporation regulations; and

(d) shall not interfere with the professional responsibilities of an attorney to a client.

Effective date.—This Part becomes effective on [30 days from date of publication].

APPENDIX 2—MATERIALS AND CORRESPONDENCE CONCERNING THE EXPANSION POLICIES AND PRACTICES OF THE LEGAL SERVICES CORPORATION

(This appendix reflects the dialogue between the Subcommittee on Courts, Civil Liberties and the Administration of Justice, and the Legal Services Corporation, which resulted in changes in those policies and practices.)

1. Legal Services Corporation, Guidelines for the Selection of Applicants to Serve New Areas, dated Aug. 5, 1977.

2. Charles E. Jones, Director, Office of Field Services, Legal Services Corporation, Memorandum dated May 26, 1978, to Regional Directors.

3. Representatives Robert W. Kastenmeier and Tom Railsback, letter dated June 12, 1978, to Thomas Ehrlich, President, Legal Services Corporation.

4. Roger C. Cramton, Chairman, L.S.C. Board of Directors, letter and attachments dated June 16, 1978, to Representative Robert W. Kastenmeier.

5. Thomas Ehrlich, letter and attachments (internal Draft Staff Guidelines Concerning Publicity of and Comments on Expansion into New Areas, and Concerning Expansion of Service to New Areas) dated June 20, 1978, to Representatives Robert W. Kastenmeier and Tom Railsback.

6. Representatives Robert W. Kastenmeier and Tom Railsback, letter dated June 29, 1978, to Thomas Ehrlich.

7. Thomas Ehrlich, letter and attachment (Interim Internal Staff Director Concerning Publicity of and Comments on Expansion into Areas Previously Unserved by L.S.C.—Funded Programs) dated July 14, 1978, to Representatives Robert W. Kastenmeier and Tom Railsback.

8. Thomas Ehrlich, letter and attachments (Internal Staff Directives Concerning Publicity of and Comments on Expansion into Areas Previously Unserved by L.S.C.—Funded Programs, and Concerning Expansion of Service to Areas Previously Unserved by L.S.C.—Funded Programs) dated Nov. 28, 1978, to Representatives Robert W. Kastenmeier.

GUIDELINES FOR THE SELECTION OF APPLICANTS TO SERVE NEW AREAS

In its 1978 budget request the Corporation asked for funds to implement its plan to provide service to all eligible clients without access whether living in areas served by existing LSP or not, at a level of two attorneys per 10,000 poor, except for the eleven largest LSPs for whom funds will be made available to cover 50% or 100,000 of the poor without access whichever is greater.

The Congress approved an appropriation of \$205 million. While this amount is less than the \$217 million requested, it nevertheless will make available a significant amount of funds for expanding access through existing programs and for establishing new programs in previously unserved areas.

This memorandum deals with the allocation of money for programs in areas now uncovered.

The Corporation is allocating \$18,475,165 for this purpose. The money will be divided among the regions and states in proportion to the number of eligible poor who currently live outside the geographical boundaries of existing programs.

Since this money will be spent as the first step toward the intermediate goal of 2 lawyers per 10,000 poor, the Corporation has concluded that grants should be made to administrative units that will best provide the full coverage that is planned. Regional Offices are instructed to encourage applications to provide service through all types of delivery methods and to seek the best possible means to provide assistance for the areas to be served. The Corporation also intends to recognize the trend toward consolidation of smaller programs in order to pass on the benefits of larger administrative units, when feasible, for more efficient service, and thus will attempt to fund through such larger administrative units. The Corporation has also concluded that any new programs that are approved should be assured of funds at the level of \$4.90.

Therefore, in its review of applications for grants to provide legal services in previously uncovered areas, the Corporation will be guided by the following policies:

1. Priority will be given to those states and areas within States where the largest number of poor persons reside in areas without access to legal services programs.

2. Within any given state, priority will be given to funding through administrative units that will provide services to the largest number of eligible clients (including those in rural areas) in the most efficient manner. The willingness of applicants to become a part of such administrative units will be an important factor in choices made by LSC.

3. Where the provision of service in new areas can be accomplished as well by expanding geographic coverage of existing LSC programs of proven effectiveness, these existing LSC programs will be given priority.

4. In making grants, the Corporation will require:

(a) A new grantee to limit its geographical area, so that it will provide service in that area at the per capita level of \$4.90; and

(b) An existing LSC grantee to limit its geographical area, so that it will provide service in that area at the per capita level of \$7.00.

5. Outside funds available to an applicant will be considered by the Corporation in defining the area to be served. It is not the Corporation's present intention to hold total funds (LSC and non-LSC funds) to the intermediate level of 2 attorneys per 10,000 poor, in view of the changeable nature of most outside funding sources. However, if the total of outside funds plus the proposed LSC grant would allow the

program to operate at a level in excess of 4 attorneys per 10,000 poor, the amount of LSC funding may be adjusted accordingly.

[Memorandum]

LEGAL SERVICES CORPORATION

Date: May 26, 1978.
To Regional Directors.
From Charles E. Jones.
Subject: Expansion Activities.

Even though we do not know the amount of our appropriation for Fiscal Year 1979, I am certain that you are continuing to explore the best available means of delivering legal services to unserved areas in your regions.

As part of our continuing effort to improve the selection process and to insure that we are giving the widest possible notice of availability of funds for the provision of quality legal services to interested groups, please also be sure that you continue to notify and involve not only existing Corporation-funded legal services programs but also all interested existing non-Corporation funded legal services programs in the planning process. Further, in addition to the notices of proposed grants that you send to the Governor, State Bar and principal local Bar pursuant to the Act, please send notice to any local non-Corporation funded legal services programs.

CONGRESS OF THE UNITED STATES,
COMMITTEE ON THE JUDICIARY,
Washington, D.C. June 12, 1978.

Mr. THOMAS EHRLICH,
President, Legal Services Corporation,
Washington, D.C.

DEAR TOM: The Subcommittee on Courts, Civil Liberties, and the Administration of Justice has been reviewing the expansion practices and policies of the Legal Services Corporation. We believe that improvements can be made in this area. Of particular concern to us are the instances in which the Corporation has expanded to cover a new geographic area without adequate direct notice to and consultation with existing local legal services programs, clients, and other community representatives. We recognize that there may be divergent views regarding legal needs and service approaches, but appreciate the value of open and public discussions on the subject of expansion funding.

We commend you on your May 26th directive to the regional directors "to insure . . . the widest possible notice of availability of funds . . . to interested groups," and the involvement of all legal services programs in the planning process. Your voluntary extension of the notice requirements of Section 1007(f) of the Legal Services Corporation Act to include local legal services programs is another positive step. However, in order to have the input of each group which has an interest in the expansion of legal services in a given geographical area, it would be helpful if the following specific procedures were followed, whenever expansion was being considered either through a new entity or an existing program.

1. As soon as practicable, and no later than one month prior to the deadline for receipt of expansion proposals in a geographic area, the Corporation shall send written solicitations for views and proposals to serve a given area. Solicitations shall be sent to the director of:

- (a) the State bar association;
- (b) all local bar associations;
- (c) all existing legal services programs—whether they are funded or *pro bono*;
- (d) the National Client's Council; and
- (e) any other groups which represent clients or legal services programs.

2. As soon as the deadline for receipt of proposals has passed, the Corporation shall hold a public hearing on the proposals, and must give one week's written notice to all the above groups to invite their participation. Hearings shall be held within the geographical area to be served, and when distances of greater than 100 miles are involved, additional hearings shall be scheduled in other locations which insure accessibility to interested parties.

3. After compliance with the above procedures, and at least thirty days prior to the approval of any grant application or prior to entering into a contract or prior to the initiation of any other project, the Corporation shall announce publicly, and shall notify the Governor, the State bar association, and any existing legal services

programs in the service areas of such grant, contract, or project. Notification shall include a description of the proposal and request comments and recommendations.

4. When the expansion plans are completed and accepted by the Corporation, the Board of Directors of such program shall be constituted in accordance with Section 1007(c) of the Legal Services Corporation Act of 1974 as amended, and membership on the Board and advisory councils shall be structured to reflect the communities to be served.

We believe that these procedures will allow the expansion of legal services to proceed in the manner most conducive to meeting the legal needs of the nation's poor. Your views on our recommendations will be greatly appreciated.

Sincerely,

TOM RAILSBACK,

Ranking Minority Member.

ROBERT W. KASTENMEIER,

*Chairman, Subcommittee on Courts,
Civil Liberties, and the Administration of Justice.*

LEGAL SERVICES CORPORATION,
CORNELL LAW SCHOOL,
Ithaca, N.Y., June 16, 1978.

Hon. ROBERT W. KASTENMEIER,
Chairman, Subcommittee on Courts, Civil Liberties and the Administration of Justice, U.S. House of Representatives, Washington, D.C.

DEAR BOB: Thank you for your letter of June 2, 1978, concerning the policies and procedures of the Legal Services Corporation in selecting grantees in areas not presently served by LSC grantees. I regret that I was unable to provide you with a response prior to the consideration on the floor of the House of the LSC appropriation. (A partial excuse lies in the fact that the Post Office did not deliver your package until June 8, 1978, nearly a week after the date of your letter.)

I was delighted to hear that you and other members of the Subcommittee were instrumental in turning back an attempt to cut substantially the funds available to the Corporation for expansion of the legal services program in fiscal 1980. The poor people of the nation will be much indebted to you for this victory.

The hearings held on May 22 do raise issues that are important and that should be given further attention by the Board of Directors of the Corporation. You will be pleased to learn that one of the items on the agenda for our next Board meeting (July 6-7, 1978, in Washington, D.C.) is the policies and procedures to be followed in selecting grantees in expansion areas. The record of the May 22 hearing contains material that suggests that our policies may need clarification and our procedures some improvement. I know that Tom Ehrlich has been in touch with you on this point and you may be sure that your suggestions concerning improved procedures will be communicated to the Board.

I am enclosing some materials which suggest that the problems are not confined to central Virginia. In my home area (Tompkins County, New York State) there has been some unhappiness with the policies followed in allocating expansion monies, the criteria used in selecting among competing applications, and the inaccessibility and secrecy of the selection process. I am enclosing an exchange of correspondence and other materials relating to the actions of the New York regional office of the Corporation in passing on applications for provision of legal services in this area, which is one of the unserved areas in New York State.

It is my hope that the Corporation's policies and procedures in this area will be substantially improved. I thank you for drawing these issues to our attention.

Please let me know if I can be of further assistance.

Faithfully,

ROGER C. CRAMTON.

LEGAL SERVICES CORPORATION,
New York, N.Y., February 27, 1978.

PETER W. MARTIN,
Professor of Law, Cornell Law School,
Ithaca, N.Y.

DEAR PROFESSOR MARTIN: I have received your letter of February 17, 1978 in relation to the proposal submitted by John Capowski of your Law School Legal Aid Clinic. We had previously informed Mr. Capowski of the action which this office was taking with respect to Tompkins, Cortland and Schuyler Counties. Of these three counties we have funded for expansion Schuyler County which will be handled by Chemung County Neighborhood Legal Services and Cortland County into which Onondaga Neighborhood Legal has been authorized to expand. It is our hope that we will be able to authorize expansion into Tompkins County in 1979. In fact, the funding of the Finger Lakes proposal with some modification for 1979, has not been categorically rejected.

Prior to the selection of those counties in which expansion would take place we had meetings with all the persons that submitted proposals to this office for expansion, including Mr. Capowski. In addition, a committee of disinterested legal services project directors headed by Mr. Steve Brown of the Greater Upstate Law Project reviewed the proposals and reported their observations to this office in extensive detail at a meeting held here on December 8, 1977. The remaining members of that committee were Carl Nathenson, Nassau County Law Services, Inc., Gerald McIntyre, Southern Tier Legal Services and John Gorman, Mid-Hudson Legal Services Inc. In addition, we received comments from those persons in the affected communities who wished to comment on the various proposals. We have notified the local bar associations, the Governor's office and the New York State Bar Association of the actions which we have taken. In addition, we have published our proposed actions in the Federal Register for comment. The comment period will run until March 10, 1978. After that period our determination will become final.

Enclosed you will find the guidelines for selection of applicants to serve new areas. These guidelines have been developed by the Office of Field Services of the Corporation after extensive consultation with the Corporation's Board of Directors. This memorandum sets forth the policies on expansion into unserved areas. You will note in particular Policy pronouncements 2 and 3 on Page 2 of the memorandum. Both programs selected to expand into Cortland and Schuyler counties are existing legal services programs of proven effectiveness and they were given priority in the expansion of geographic coverage. In addition, both programs have indicated a willingness to join into a larger administrative unit through the concept of a shared legal services program which will enable them to provide enhanced services to the largest number of eligible clients in the most efficient manner.

In regard to your last question, there is no formal review procedure in the Legal Services Corporation Act and none has been adopted by way of regulation by the Corporation. If you disagree with the action of the Regional Office you are free to bring this matter to the attention of the Director of Field Services or for that matter to the President of the Corporation. I would reiterate, however, that we do hope to extend services into Tompkins County in Fiscal 1979 depending, of course, on the level of our Congressional appropriation.

Yours truly,

DONALD GRAJALES,
Regional Directors.

Enclosure.

CORNELL LAW SCHOOL,
Ithaca, N.Y., February 17, 1978.

Mr. DONALD GRAJALES,
Director, Regional Office,
Legal Services Corporation, New York, N.Y.

DEAR MR. GRAJALES: I am a professor at the Cornell Law School who has had a longstanding interest in legal services for the poor. I have taught and written on the subject and provided assistance to the Cornell Legal Aid Clinic, the only organization now providing legal services to the poor in Tompkins County.

John Capowski, the director of the Cornell Legal Aid Clinic, recently stated that he had heard that your office had taken final action on a number of competing proposals for the provision of civil legal assistance in this part of New York State. I am writing to obtain further information concerning the action taken, the proce-

dures by which the action was taken, the criteria or policies on which it was based, and any steps that might be taken for its review and reconsideration. I would presume that of all government agencies yours must handle such matters in a principled and open manner.

In particular, I request the following information:

1. What action has the Legal Services Corporation taken concerning the competing proposals for service relating to Tompkins, Cortland, and Schuyler Counties, New York State?

2. What procedures preceded this action? What opportunity was given to interested people and affected communities to participate in this decision? Who was consulted? How? What steps were taken to determine the wishes of the communities involved? What hearings or other meetings took place? Etc.

3. What were the grounds of the decision (i.e., on what criteria or policies was it based)?

4. What avenues of reconsideration or review are now available to a person or group who is adversely affected by the decision?

I would appreciate a response at your earliest convenience.

Sincerely yours,

PETER W. MARTIN,
Professor of Law.

[From the Ithaca (N.Y.) New Times, Feb. 14, 1978]

COUNTY DENIED FEDERAL FUNDS FOR LEGAL SERVICES OFFICE

THE NEED FOR LEGAL SERVICES TO THE POOR IS NOT BEING ADEQUATELY MET IN TOMPKINS COUNTY

(By Alan Jay Alpern)

Tompkins County has again been by-passed in the duel for a share of federal funds delivering legal services to the poor.

The New York regional office of the federally-financed Legal Services Corporation (LSC) voted not to fund this year any of several proposals which would have established a Legal Services Office in Tompkins County.

A number of local legal services proponents were looking forward to the opening of an Ithaca office this year.

But Roger C. Cramton, dean of the Cornell Law School, says it will be no more than 18 months before Tompkins County is served by the Legal Services Corporation.

Cramton, who is also chairman of the Legal Services board of directors, said the corporation intends to have funding available to every community in the nation by mid-1979. By that time, he predicted, Tompkins county will either have a Legal Services office of its own or will be serviced by a branch office operated by the program in Elmira.

Founded in 1974 by an act of Congress, the independent corporation was envisioned as a way of guaranteeing the poor access to legal services free from the constraints of partisan politics. The LSC replaced the Legal Services Program, part of the War on Poverty's Office of Economic Opportunity which had become mired in the negativism of the Nixon years.

CIVIL CASES

Legal Services is limited to civil lawsuits. It offers legal assistance to poor persons who cannot afford to hire an attorney in such matters as landlord-tenant relations, consumer problems, unemployment insurance, problems with the Department of Social Services, social security difficulties and other civil matters. The program also does some work in family suits, such as divorces, custody disputes and neglect and abuse complaints.

According to John Capowski, director of Cornell's Legal Aid Clinic, the Legal Services Corporation is supposed to service a constituency "that has minimum clout on its own and is subject to a lot of attack."

Capowski is a strong advocate of Legal Services opening an Ithaca office. He recognizes the limitations of his Cornell program and sees a desperate need for the kind of "vibrant outreach" that an active Legal Services staff could offer poor persons in Tompkins County.

Accordingly, he submitted one of several proposals to the Legal Services regional office in New York City for including Tompkins County in plans to expand the corporation's services upstate.

Other proposals were submitted by Thomas Dubel, executive director of Chemung County Neighborhood Legal Services in Elmira; and the Binghamton-based Legal Services program.

MOST ELABORATE

Dubel's proposal was the most elaborate, calling for a Central New York State Legal Services operation in conjunction with the programs now centered in Syracuse and Utica. The unit would cover 13 counties. Ambitious in scope and planning, the 13-county proposal would include three senior attorneys, each specializing in one of the areas that make up the bulk of legal services to the poor: public welfare, housing and consumer/employment.

Dubel said that the greatest advantage of his proposal is that it allows for specialization because it is broad enough in geographic area to generate sufficient funds for a large staff. In the past, he noted, Legal Services has depended on "relatively young, inexperienced attorneys" and has had a rapid turnover rate.

Hiring senior attorneys who can specialize, Dubel said, will offer younger attorneys the opportunity to work on a daily basis with experienced lawyers and gain a strong grasp of one aspect of law.

Dubel argued that the Cornell proposal is too small to allow for such needed specialization and would not have a large enough base to guard against a high staff turnover rate.

But Capowski believes the Elmira proposal is much larger than Tompkins County needs and fails to pay adequate attention to the needs of rural residents here.

IMMENSITY OF PLAN

The Cornell Legal Aid director said he decided to submit his proposal for Legal Services funding because he was "troubled" by the immensity of the 13-county plan and felt that programs would be financed that did not directly benefit the Tompkins County poor. But most important, Capowski said he was "skeptical of a proposal that serves a predominantly urban group."

Capowski's proposal calls for a vigorous outreach program in the rural areas of Tompkins County through the assistance of nutrition and agriculture workers of Cooperative Extension and public health nurses. The proposals warns: "Unless new programs consciously focused on the legal needs of the rural poor are established, legal services, will remain in fact, if not in pretense, an urban program."

Capowski acknowledged that the Cornell Legal Aid Clinic can not adequately serve the legal needs of poor persons in the county because of time constraints on the students and legal constraints on the types of cases it can handle. The primary function of the clinic, he noted, is education for the student participants. Even so, it handles an average of 500 cases each year.

If a locally controlled office of the Legal Services Corporation were established in Ithaca, Capowski added, it would undoubtedly have a healthy relationship with his clinic and the law school. The potential would exist, he said, for students who have participated in the clinic to do paralegal work for Legal Services.

LOCAL CONTROL

Dean Cramton agrees that Ithaca's Legal Services office should be locally controlled. If Tompkins County is served by a branch with a lawyer or two from Elmira, he said, it will "largely fatten that program and Tompkins County won't get the benefits of it. And even if we did . . . I doubt if it would have a relationship to Cornell."

Cramton sees a real need for a Legal Services program here. "It seems to me there is no question there are plenty of poor people in this part of Appalachia who need services," he said. "The need for legal services to the poor is not being adequately met in Tompkins County. And I don't see attorneys lining up to take cases the Legal Aid Clinic could refer to them if they were willing."

But the Legal Services board chairman will not use his influence to pressure the regional office to open an office in Ithaca.

"I try not to get involved in local issues and decisions," he remarked. "The board deals with national issues, not which particular part of New York State should be funded before another."

The New York regional office partially funded the 13-county proposal this year, adding six counties to the areas already served by Elmira, Syracuse and Utica. The counties are: Schuyler, Cortland, Cayuga, Madison, Herkimer and Lewis.

Dubel admitted that the implication is that Tompkins County will be funded as part of his proposal next year. But he cautioned, "They haven't said directly that they will fund the entire proposal."

So the possibility remains open that Tompkins County will have an independent Legal Services operation, as preferred by Cramton and Capowski.

PREVIOUSLY CRITICAL

Arthur J. Golder Jr., president of the Tompkins County Bar Association, declined to comment on the merits of a Legal Services office here. He said the Bar Association, which has been critical of the program in the past, will be discussing Legal Services at its Thursday meeting and he would be better able to talk about it after he has had the chance to "learn more about what is proposed."

County Judge Betty Friedlander and Dist. Atty. Joseph Joch both see the need for free legal services to the poor, but they disagree on the applicability of this program.

"Given our adversary system," Friedlander said, "I think it is absolutely essential that everybody have access to an attorney, regardless of ability to pay."

Friedlander noted that many people who would consult a lawyer if the service were available generally feel left out of the legal system and try to solve their problems through other, less useful, means.

"The benefits of being able to consult a lawyer by the entire population makes a much better community for everyone," she said. "This isn't an advantage you're giving to one person. It's a benefit to the entire community for people to feel they have access to legal services."

ABUSE OF PROGRAMS

Joch said the concept of providing legal assistance to the poor is "laudable as an objective" but he believes legal aid programs have been abused by persons who can afford to pay for a lawyer and like to plague the legal system with their petty problems.

"People who administer these programs are squeamish about investigating the backgrounds of people who apply," Joch observed. "People who can afford [a lawyer] are taking advantage of the system and using up services intended for the poor."

The district attorney said he favors extending legal services to those who genuinely cannot afford them, but that there must be some safeguards established to make sure a free federally-funded program is not abused.

Cramton dismissed Joch's criticism as a "red herring," stating the "the assertion that we are donating services to large numbers of people who can afford to pay is a silly one. It is made in communities where attorneys do not like Legal Services." Cornell's Legal Aid Clinic, he added, has established procedures for checking the economic eligibility of individuals who apply for free legal assistance.

What form Ithaca's Legal Services office will take and who will control it are unanswered questions at this time. The one thing that is clear, though, is that in one form or another, Legal Services will be coming to Tompkins County.

CONNOR, CURRAN, CONNOR, FLINT & SCHRAM,
Chatham, N.Y., February 14, 1978.

Hon. EDWARD W. PATTISON,
*Congressman, 29th Judicial District,
Congressional Headquarters, Troy, N.Y.*

DEAR CONGRESSMAN PATTISON: I enclose a statement of the Board of Directors of the Columbia County Legal Aid Society, condemning the action taken by the National Legal Services Corporation.

What makes the matter so much more disheartening is the fact that Mid-Hudson Legal Services Corporation still has not set up any delivery mechanism for Columbia and Greene Counties, and we have already received several complaints from indigent persons that Mid-Hudson has refused to talk to them. We also have heard from people who have indicated that Mid-Hudson has consistently in the past three years refused to represent them, indicating that they did not service Columbia County. This is in direct contradiction to their representation made to the National Legal Services Corporation.

The Bar Associations of both Columbia and Greene Counties have not in any way been consulted by Mid-Hudson, nor do they want anything to do with this organization. Columbia County Legal Aid Society has offered to help Mid-Hudson deliver services to persons in Columbia and Greene Counties, but Mid-Hudson has rejected this.

I continue to be amazed at the decision of the National Legal Services Corporation, the fallacy of which is becoming more apparent each and every day.

Your continued cooperation in this regard is appreciated. I think at the very least

that everyone is entitled to know where the \$56,000.00 given to Mid-Hudson has gone, and why they have not yet set up any kind of delivery system.

Respectfully yours,

THEODORE GUTERMAN II.

Enclosure.

The Board of Directors of the Columbia County Legal Aid Society is shocked and dismayed at the bureaucratic blunder made by the National Legal Services Corporation. They completely ignored the present and existing Columbia County Legal Aid Society, which was already operating in Columbia County. Instead, they awarded a grant to the Mid-Hudson Legal Services Corporation, located in Poughkeepsie, New York, which has not and still does not service Columbia County. This was done despite the fact that the Columbia County Legal Aid Society had the full and complete backing of the Columbia County Bar Association and the unanimous support of the Appellate Division of the New York State Supreme Court. This was done despite the fact that the Columbia County Legal Aid Society already had an office and was servicing residents of Columbia County, whereas the Mid-Hudson Legal Services Corporation did not. This was done although the Mid-Hudson Legal Services Corporation disclosed that it would not have an office for an attorney in Columbia County, but would operate out of Kingston, New York. It is elemental that an attorney located in Kingston, New York is not going to be able to effectively serve indigent persons in Columbia County because of the distance involved. The only effective way for adequate representation is to have an office and attorney in the County to be served.

It is doubtful that the funds given to the Mid-Hudson Legal Services Corporation will be used to service indigent persons in Columbia and Greene Counties, as intended. Already, we have received complaints from persons in these Counties whom the Mid-Hudson Legal Services Corporation has refused to see. It is a shame that the money of the Legal Services Corporation, contributed to by the taxpayers of Columbia and Greene Counties, is not being channeled back into these Counties.

Our Board of Directors will do everything in its power to maintain the existence of the Columbia County Legal Aid Society, and the National Legal Service Corporation will know each and every time that Mid-Hudson fails to represent the people in Columbia and Greene Counties. The Board of Directors will not stand by and allow such an inequitable decision to stand, and will do everything in its power to remedy the situation. In this regard, the Board of Directors welcomes any comments or information which may be addressed to the Legal Aid Society of Columbia County, P.O. Box 71, Hudson, New York 12534. Any correspondence received will, if requested, be forwarded to the Regional Director of the Legal Service Corporation.

THEODORE GUTERMAN II,
*President, Board of Directors,
Columbia County Legal Aid Society.*

LEGAL SERVICES CORPORATION,
Washington, D.C., June 20, 1978.

Hon. ROBERT W. KASTENMEIER,

Hon. TOM RAILSBACK,

Subcommittee on Courts, Civil Liberties, and the Administration of Justice, Committee on the Judiciary, House of Representatives, Washington, D.C.

DEAR CONGRESSMEN KASTENMEIER AND RAILSBACK: On behalf of all involved in civil legal services for the poor—clients, lawyers, and others—I express my deep gratitude for your joint leadership in the House of Representatives to assure quality legal representation for all poor people. Your efforts—particularly during the past week—were magnificent.

As we discussed, my colleagues and I support fully the basic approach suggested in your letter of June 12, 1978, concerning expansion of service into new geographic areas. Indeed, as I indicated to you, we have sought to follow essentially that approach over the past two years. When I met with our Regional staff in Denver last week, I underscored the importance of the procedures—particularly notice to local groups. We agree, however, that it will be helpful to have the procedures spelled out for our Regional staff and to ensure that they are widely understood.

To this end, we have drafted the enclosed internal guidelines to ensure that interested parties are informed of the availability of expansion funds and have an opportunity to comment. These guidelines essentially follow the four points in your letter. They also emphasize that the Corporation's decision on how best to provide civil legal assistance to the poor in a particular area is not an adjudication involving adverse parties or a competitive bidding process. Our mission is to attempt to

develop and fund the best possible arrangements for serving poor people, not to choose among competing claimants. From our recent discussions, I know you both endorse this view of the corporation's responsibilities.

Further, the procedures you suggested seem to us to require several minor modifications. On the basis of our discussions, I do not believe that these modifications are inconsistent with our views.

First, the guidelines provide for sending notices to the State bar association; all local bar associations; all existing legal services programs—whether they are funded or pro bono; and the National Clients Council. But we have used the publication of an announcement in a newspaper or newspapers of general circulation (within the area to be served) as a substitute for notice by mail to other groups since it is often impossible—or at best extremely difficult—to determine all such groups. Publication seems to serve the essential purpose.

Second, we have not included the requirement that the area to be covered by a single public meeting must be limited to a radius of 100 miles. In some situations, that limit might require multiple meetings at substantial expense. Further, if a county extends over 100 miles, but for example, has fewer than 1,000 poor residents, service might be feasible only through expansion by one or more programs in adjacent counties and a public meeting would serve no useful purpose. In all events, we believe the arrangements specified in the enclosed draft meet the essential aims of your letter.

Finally, I add—though it seems obvious—that we would not expect to hold a meeting if only one application is made to provide service in an area and no objections are received concerning the matter.

The Board of Directors of the Corporation will be meeting early next month, and I am sending the Board members a copy of our correspondence and the draft guidelines as well as your correspondence with Roger Cramton. Roger and I expect the Board to discuss the issues involved at the July meeting, and I will be in touch with you directly or through your staff after that session.

In the interim, again, my thanks and warm regards,

Cordially,

THOMAS EHRLICH.

Enclosure.

LEGAL SERVICES CORPORATION INTERNAL STAFF GUIDELINES CONCERNING PUBLICITY OF AND COMMENTS ON EXPANSION INTO NEW AREAS

The Legal Services Corporation is responsible for supporting high quality legal assistance to the poor. When the Corporation has funds to support the assistance in a new area, the Regional staff should attempt to develop and recommend for funding, the best possible arrangements for that assistance, not simply choose from among applicants. Nonetheless, it is important for the Regional staff to attempt to notify all those in a new area who might be interested in service in that area, and to give them an opportunity to comment. These guidelines are designed for this purpose.

1. As soon as practicable, the Regional staff should announce the availability of funds to provide legal services for the poor in a geographic area. The announcement should state that the Corporation will consider the views of and proposals from all interested groups, and should be sent to:

(a) The State Bar Association; (b) all local Bar Associations in the area under consideration; (c) all existing legal services programs—whether they receive funds or are operated as pro-bono programs; and (d) the National Clients Council.

In addition, the announcement should be published in a newspaper or newspapers of general circulation within the geographic area to be served. To the extent feasible, Regional staff should attempt to send and publish announcements at least thirty days prior to the deadline for receiving proposals for the provision of legal services in an area.

2. In the event that more than one alternative for the provision of legal services is proposed, or if any of the interested parties listed in paragraph (1) objects to the funding of a legal services program in the area, the Regional staff should hold a public meeting in the geographical area to be served. To the extent practical, the meeting should be held in a location that will ensure accessibility to the maximum number of interested parties, and Regional staff should attempt to notify interested parties of the date and place of the meeting. Although this meeting procedure should be useful in most situations, it would occasionally be inappropriate. Some expansion grants may be for such small amounts, for example, that it would be impractical to expand except through an existing program, and the meeting procedure would serve no practical purpose.

3. At least thirty days prior to the approval of any grant application or prior to entering into a contract or prior to the initiation of any other project for the provision of legal services, the Corporation shall announce publicly and shall notify the Governor, the State bar association of any State, and the principal local bar association (if there be any) and any existing legal services programs in the service area where legal assistance will thereby be initiated of such grant, contract, or project. Notification shall include a reasonable description of the grant application or proposed contract or project and request comments and recommendations.

4. When arrangements for expansion into a new area are completed and approved by the Corporation, the Board of Directors of the program selected to serve that area must be constituted in accordance with Section 1007(c) of the Legal Services Corporation Act of 1974, as amended, and membership on the board and any program advisory councils must be structured to reflect the communities to be served.

In its 1979 budget request, the Corporation is seeking funds to implement its short-term plan to provide resources for civil legal services to eligible poor persons without minimum access (whether living in areas served by an existing program or not), at a level equivalent to two attorneys per 10,000 poor persons.

Although the Congress may not approve an appropriation of the full amount requested, we nevertheless hope and expect that it will make available a significant amount of increased funding for expanding access through existing programs and for establishing new programs in previously unserved areas.

These guidelines deal with the allocation of funds for programs in areas not uncovered.

These funds will be divided among the regions and states in proportion to the number of eligible poor who currently live outside the services boundaries of existing programs.

Since these funds will be spent as a further step toward the short-term goal of resources sufficient to support the equivalent of two layers per 10,000 poor persons, the Corporation has concluded that grants should be made to administrative units that will best provide the full coverage that is planned. Regional Offices should consider applications to provide service through all types of delivery methods, and to seek the best possible means to provide assistance for the poor in those areas that do not have minimum access to legal services. As in the past, the Corporation recognizes the potential cost savings and the potential increased efficiency of larger administrative units. At the same time, the Corporation also recognizes the value of local control, and the particular importance of client involvement.

On this basis, Corporation staff should be guided by the following policies in determining how to provide legal services in previously uncovered areas:

1. Priority should be given to those States and areas within States where the largest number of poor persons reside in areas without access to legal services programs.

2. Within any given State, priority should be given to funding through administrative units that will serve the largest number of eligible clients (including those in rural areas) in the most efficient manner, consistent with local control and accountability.

3. When the provision of service in new areas can be accomplished as well by expanding geographic coverage of existing LSC programs of proven effectiveness, the existing LSC programs should be given priority.

4. In making grants, the Corporation will require:

(a) a new grantee to limit its geographical area, so that it will receive resources for service in that area at the per capita level of \$.....; and (b) an existing LSC grantee to limit its geographical area, so that it will receive resources for service in that area at the per capita level of \$.....

5. Outside funds available to a program will be considered by the Corporation in defining the area to be served. It is not the Corporation's present intention to hold total funds (LSC and non-LSC funds) to the minimum-access level of the equivalent of two attorneys per 10,000 poor, in view of the changeable nature of most outside funding sources. If the total of outside funds plus the proposed LSC grant would allow the program to operate at a level in excess of the equivalent of four attorneys per 10,000 poor, however, the amount of LSC funding may be adjusted accordingly.

6. If in grant year 1978 expansion money was used partially to serve the eligible poverty population of a county there is a presumption that the remaining poverty population will be given preference in grant year 1979.

CONGRESS OF THE UNITED STATES,
COMMITTEE ON THE JUDICIARY,
Washington, D.C., June 29, 1978.

Mr. THOMAS EHRLICH,
President, Legal Services Corporation
Washington, D.C.

DEAR TOM: We are pleased to learn that the Board of Directors of the Legal Services Corporation will have a discussion of expansion procedures and plans as part of their agenda next week, and that our concerns as expressed to you in the letter of June 12th have been forwarded to the Board members and incorporated in part in your June 19th draft of "Guidelines Concerning Publicity of and Comments on Expansion into New Areas." However, we would like to make some comments on the draft guidelines and their purpose.

It would seem appropriate for the Board to take a formal position on such guidelines. The issue of developing adequate local input in the planning of programs to serve new areas is an important matter for the potential clients and for the communities in which they reside. Legal resources in those areas, including the local bar associations, may be valuable assets to the development of new programs.

The staff draft provision on notice for solicitation of views and proposals is a definite improvement over the present Corporation policy. However, it would not be burdensome on the Corporation to have a minimum notice period of 30 days, since that period would afford some time to develop a proposal or suggestions on expansion plans. A shorter period would likely be inadequate. Also, although publication in a newspaper of general circulation in the geographic area to be served is necessary to reach the general public, it would also seem appropriate to give direct written notice to any other groups which represent clients or legal services program, in addition to the State bar association, local bar associations, existing legal services programs, and the National Client's Council.

Your draft provision on the procedures for a public meeting on the proposals does not completely resolve the problems which precipitated our recommendation that a public meeting be held, and that it be accessible to interested persons from the service community. We are concerned, even if there is only one proposal submitted, that it be developed with a reasonable amount of input from the community which will be served. As a corollary, a meeting which is too distant from some of the community to be served will not allow the interested persons—particularly poor persons—the opportunity to be heard. If you intend to expand programs through large administrative units—a procedure which is subject to criticism that it may decrease accessibility and local control—then it seems proper that discussion meetings should take place within a reasonable distance for travel by the client community. Approximately 100 miles seems an appropriate maximum distance. Also we do not understand why a small expansion grant to a new area through an existing program would not merit a public meeting.

The provision on a public meeting could also be improved if notice included publication in a newspaper of general circulation, as well as written notice to the parties specifically mentioned.

We hope that you will review these comments with the Board, and welcome the public discussion next week.

With warm regards,
Sincerely,

TOM RAILSBACK,
Ranking Minority Member.
ROBERT W. KASTENMEIER,
Chairman, Subcommittee on Courts,
Civil Liberties, and the
Administration of Justice.

LEGAL SERVICES CORPORATION,
Washington, D.C., July 14, 1978.

HON. ROBERT W. KASTENMEIER,
HON. TOM RAILSBACK,
Subcommittee on Courts, Civil Liberties, and the Administration of Justice, Committee on the Judiciary, House of Representatives, Washington, D.C.

DEAR CONGRESSMEN KASTENMEIER AND RAILSBACK: The Board of Directors of the Legal Services Corporation met last week, and as you know one of the matters on the agenda was policies and procedures concerning selection of grantees in areas not

served by Corporation-funded programs. The Board had before it our exchange of correspondence and also your exchange with Roger Cramton. Since a member of the Subcommittee staff was at the meeting, I will not review here the useful discussions that the Board had on the issues involved.

On the basis of the Board's review, it adopted a resolution approving the enclosed draft as interim guidance for the Corporation's Regional staff. At the same time, the Board asked the Regulations Committee of the Board to review the matter and to prepare recommendations concerning any revisions that might be necessary.

Over the course of the summer, we look forward to working with you and your staff in our continuing effort to assure the most efficient and effective legal services for poor people.

Again, my thanks for your support. With all good wishes,
Cordially,

THOMAS EHRLICH.

Enclosure.

LEGAL SERVICES CORPORATION INTERIM INTERNAL STAFF DIRECTIVE CONCERNING PUBLICATION OF AND COMMENTS ON EXPANSION INTO AREAS PREVIOUSLY UNSERVED BY LSC-FUNDED PROGRAMS

The Legal Services Corporation is responsible for supporting high quality legal assistance to the poor in civil matters. When the Corporation has funds to support assistance in an area previously unserved by an LSC-funded program, the Regional staff of the Corporation should attempt to develop and recommend for funding arrangements for the assistance that will give the best assurance of the highest quality and the greatest efficiency. This directive is designed to aid the Corporation in obtaining the information needed to reach sound decisions to achieve those objectives. The procedures should be followed as a general rule, though it may be appropriate to modify them to meet the circumstances of particular situations.

1. As soon as practicable, the Regional staff should announce the availability of funds to provide legal services for the poor in a geographic area. The announcement should state that the Corporation will consider the views of and proposals from all interested groups, and should be sent to: (a) the State Bar Association; (b) all local Bar Associations in the area under consideration; (c) all existing legal services programs—whether they receive funds or are operated as pro-bono programs; and (d) the National Clients Council.

In addition, the announcement should be sent to other appropriate groups within the geographic area to be served that might be interested and that can be readily identified by Regional staff. The announcement should also be published in a newspaper or newspapers of general circulation within the geographic area to be served. Regional staff should allow at least thirty days after sending and publishing announcements for the submission of proposals for the provision of legal service in an area.

2. The Regional staff should also hold a public meeting or meetings in the geographic area to be served. Meetings generally should be held in locations that are reasonably accessible to the maximum number of interested parties, and, to the extent feasible, interested persons should not have to travel more than approximately 100 miles to attend. Regional staff should attempt to notify interested parties of the date and place of meetings and should publish announcements of meetings in a newspaper or newspapers of general circulation within the geographic area to be served. If the circumstances of a particular situation makes it impractical to hold a public meeting in the geographic area to be served, particular care should be taken to ensure that all who may have an interest in the matter have an opportunity to express their views in other ways to Regional staff.

3. At least thirty days prior to the approval of any grant application or prior to entering into a contract or prior to the initiation of any other project for the provision of legal services in an area not previously served by a recipient of LSC funds, the Corporation shall announce publicly and shall notify the Governor, the State Bar association, and the principal local bar association (if there be any) and any existing legal services programs in the service area where legal assistance will thereby be initiated of such grant, contract, or project. Notification shall include a reasonable description of the grant application or proposed contract or project and request comments and recommendations.

4. When arrangements for expansion into a new area are completed and approved by the Corporation, the Board of Directors of the program selected to serve that area must be constituted in accordance with Section 1007(c) of the Legal Services Corporation Act of 1974, as amended, and membership on the Board and any

program advisory councils must be structured to reflect the communities to be served.

LEGAL SERVICES CORPORATION,
Washington D.C., November 28, 1978.

HON. ROBERT W. KASTENMEIER,
Chairman, Subcommittee on Courts, Civil Liberties and the Administration of Justice, Committee on the Judiciary, U.S. House of Representatives, Washington, D.C.

DEAR BOB: I want to take this opportunity to thank you for your support and invaluable assistance during the Ninety-fifth Congress, to congratulate you on your recent victory, and to bring you up to date on the Corporation's general plans and policies for expansion of service in fiscal year 1979.

As you know, the Corporation's fiscal year 1979 appropriation of \$270 million was signed by the President on October 10th. The new funds will allow us to make significant progress toward completion of our minimum access plan to provide funding support in local communities for the equivalent of two attorneys for every 10,000 persons at or below the official OMB poverty level. At the end of fiscal year 1978, there were more than seven million persons in all parts of the country for whom minimum access to the justice system was unavailable. With our current appropriation, \$30.5 million will be obligated for expansion activities, reducing the number of persons without minimum access to approximately three million by the end of this fiscal year. While allocations for the various states have not been firmly determined at this time, an estimated \$450,000 will more than likely be available for expansion of service in Wisconsin in 1979.

As a result of your Subcommittee's concern, the Corporation's criteria, processes and procedures for awarding expansion grants have undergone thorough review and changes at all levels. Particularly helpful were the procedures for notice and publicity recommended in your June 12, 1978, letter, co-signed by Congressman Railsback. With some modifications, the Internal Staff Directive enclosed with my July 14, 1978, response to you, was adopted by our Board of Directors after careful consideration. I am enclosing the revised directive which is designed to stimulate full and open discussions regarding proposals to provide legal services in previously unserved areas. For example, since early October, over 1,400 public notices have been published in local, daily, weekly, and minority newspapers announcing both that funds are available for unserved areas and that public meetings will be held to solicit public views from the areas to be served. In addition, we are notifying the member(s) of Congress whose District is included in the expansion area, and each United States Senator.

Public notices were published in newspapers of general circulation in Iowa, LaFayette, and Sauk Counties—those areas in your Second Congressional District currently without minimum access to legal assistance—as well as the other unserved counties in Wisconsin. Our Chicago Regional Office has received a proposal from our current recipient, Wisconsin Judicare, to provide service to the 9,331 persons eligible for civil legal assistance in these three counties. In addition, a public meeting has been scheduled for 7:00 p.m. on December 5, 1978, at the Ramada Inn, 2325 Bainbridge Road, La Crosse, Wisconsin, to discuss expansion of service to these counties and others. A copy of the public notice for this meeting has been sent under separate cover to your Congressional office.

I am also enclosing for your information our Internal Staff Directive Concerning Expansion of Service to Areas Previously Unserved by LSC-Funded Programs. This directive, adopted at our October Board meeting, was published for comment in the Federal Register, Thursday, November 9, 1978, Volume 48, No. 218, at pp. 52302-52303. It outlines our basic policy for awarding funds for expansion to new areas including those factors and priorities that must be considered by our Regional Directors as they review and evaluate grant applications. You will note that the priority for existing LSC-funded programs, a policy which guided our previous expansion efforts, is no longer contained in our new directive. Rather, all types of delivery methods will be given equal weight, with grants made to programs that will provide a full range of civil legal assistance to the poor, efficiently, effectively, and "consistent with local participation and accountability."

These policies and procedures will guide our expansion efforts in all areas of the country. Our regional offices will continue to make their recommendations on proposals directed toward the highest quality legal assistance to the poor in unserved areas. Regional offices' recommendations will be thoroughly reviewed in Washington by our Office of Field Services. Only after that review has taken place

will a recommendation be forwarded to me and a notice of intent to fund published in the Federal Register for comment. All comments received within 30 days of that publication will again be reviewed and only then will I make the final decision on the grant award.

We believe that these new policy directives will address the concerns that you and Members of the Subcommittee have expressed concerning the Corporation's grant award decision process. As we begin a new year of operations and continuing progress toward completion of minimum access, we look forward to your continued support and welcome your guidance to better enable the Corporation to fulfill its mandate to serve the legal needs of our Nation's poor.

Cordially,

THOMAS EHRLICH.

Enclosures.

PUBLIC NOTICE

The Legal Services Corporation, a private, non-profit organization created by an Act of Congress to provide support for civil legal assistance to poor people, will hold a public meeting on December 5, 1978 at the Ramada Inn, 2325 Bainbridge Road, La Crosse, Wisconsin 54601 beginning at 7 p.m. to discuss the need for establishing a new legal services program or for expanding an existing program to serve eligible clients in Crawford, Vernon, La Crosse, Monroe, Jackson, Buffalo, Trempealeau, Richland, Grant, Iowa, Sauk, Juneau, and LaFayette counties.

All interested groups and persons are urged to attend; their views will be carefully considered. Any grant application recommended by the Legal Services Corporation Chicago Regional Office will be announced in the Federal Register and additional comments and recommendations will be requested at least 30 days prior to final approval.

Those who wish to express their views in writing or obtain additional information should contact: Chicago Regional Office, Legal Services Corporation, 310 South Michigan Avenue, 24th Floor, Chicago, Illinois 60604 312/353-0350.

LEGAL SERVICES CORPORATION INTERNAL STAFF DIRECTIVE CONCERNING PUBLICITY OF AND COMMENTS ON EXPANSION INTO AREAS PREVIOUSLY UNSERVED BY LSC-FUNDED PROGRAMS

The Legal Services Corporation is responsible for supporting high quality legal assistance to the poor in civil matters. When the Corporation has funds to support assistance in an area previously unserved by an LSC-funded program, the Regional staff of the Corporation shall attempt to develop and recommend for funding arrangements for such assistance that will give the best assurance of the highest quality and the greatest efficiency. It should be recognized, however, that the Corporation is continuing to examine, through the Delivery Systems Study and in other ways, the most effective means of delivering high-quality services in various situations.

This directive is designed to aid the Corporation in obtaining the information needed to reach sound decisions concerning the allocation of expansion funds. The procedures should be followed as a general rule, though it may be appropriate to modify them to meet the circumstances of particular situations.

1. As soon as practicable, the Regional staff should announce the availability of funds to provide legal services for the poor in areas unserved by a Corporation recipient. The announcement should state that the Corporation will consider the views of and proposals from all interested groups, and should be sent to: (a) the State Bar Association; (b) the State Advisory Council established under the Legal Services Corporation Act of 1974, as amended; (c) all local Bar Associations in the unserved area; (d) all existing legal services programs in the unserved area—whether they receive funds or are operated as pro bono programs; (e) the National Clients Council; and (f) all law schools approved by the American Bar Association in the unserved areas.

In addition, the announcement should be sent to other appropriate groups within the unserved area that might be interested and that can be readily identified by Regional staff. The announcement should also be published in a newspaper or newspapers of general circulation within the unserved areas. Regional staff should allow at least thirty days after sending and publishing announcements for the submission of proposals for the provision of legal service in an area.

2. Upon thorough consideration of the proposals received, and other relevant factors, the Office of Field Services should designate those unserved areas in each state for which funds will be made available to provide service in the current fiscal

year. The Regional Office staff should hold a public meeting or meetings in those areas. Meetings generally should be held in locations that are reasonably accessible to the maximum number of interested parties, and, to the extent feasible, interested persons should not have to travel more than approximately 100 miles to attend. Regional staff should attempt to notify interested parties of the date and place of meetings and should publish announcements of meetings in a newspaper or newspapers of general circulation within the area to be served. If the circumstances of a particular situation make it impractical to hold a public meeting in the area to be served, particular care should be taken to ensure that all who may have an interest in the matter have an opportunity to express their views in other ways to Regional staff.

3. At least thirty days prior to the approval of any grant application or prior to entering into a contract or prior to the initiation of any other project for the provision of legal services in an area not previously served by a recipient of LSC funds, the Corporation shall announce publicly such grant, contract, or project, and shall notify the Governor, the State Bar association, and the principal local bar association (if there be any) and any existing legal services programs in the service area where legal assistance will thereby be initiated. Notification shall include a reasonable description of the grant application or proposed contract or project and request comments and recommendations.

4. When arrangements for expansion into a new area are completed and approved by the Corporation, the Board of Directors of the program selected to serve that area must be constituted in accordance with Section 1007(c) of the Legal Services Corporation Act of 1974, as amended, and membership on the Board and any program advisory councils must be structured to reflect the communities to be served.

LEGAL SERVICES CORPORATION INTERNAL STAFF DIRECTIVE CONCERNING EXPANSION OF SERVICE TO AREAS PREVIOUSLY UNSERVED BY LSC-FUNDED PROGRAMS

In its 1979 budget request, the Corporation sought funds to implement its short-term plan to provide resources for civil legal services to eligible poor persons without minimum access at a level equivalent to two attorneys per 10,000 poor persons.

Although the Congress did not approve an appropriation of the full amount requested, we have made available a significant amount of increased funding for expanding access through existing programs and for establishing new programs in areas unserved by Corporation recipients. This directive deals with the allocation of funds for expansion in those areas.

These expansion funds will be divided among the regions and states in proportion to the number of eligible poor who currently live outside the service boundaries of programs funded by the Legal Services Corporation.

Since these funds will be spent as a further step toward the short-term goal of resources sufficient to support the equivalent of two lawyers per 10,000 poor persons, the Corporation has concluded that grants should be made to administrative units that will most efficiently provide the highest quality of service. Regional Offices should consider applications to provide service through all types of delivery methods and should seek the best possible means to provide a full range of civil legal assistance for the poor in these areas that do not have minimum access to legal services. Economies of scale in the administration of legal services programs, including cooperative arrangements among programs, should be considered along with other factors affecting efficiency and quality.

On this basis, in the allocation of expansion funds, priority should be given to those states and areas within states where the largest number of poor persons reside in areas without access to legal services programs.

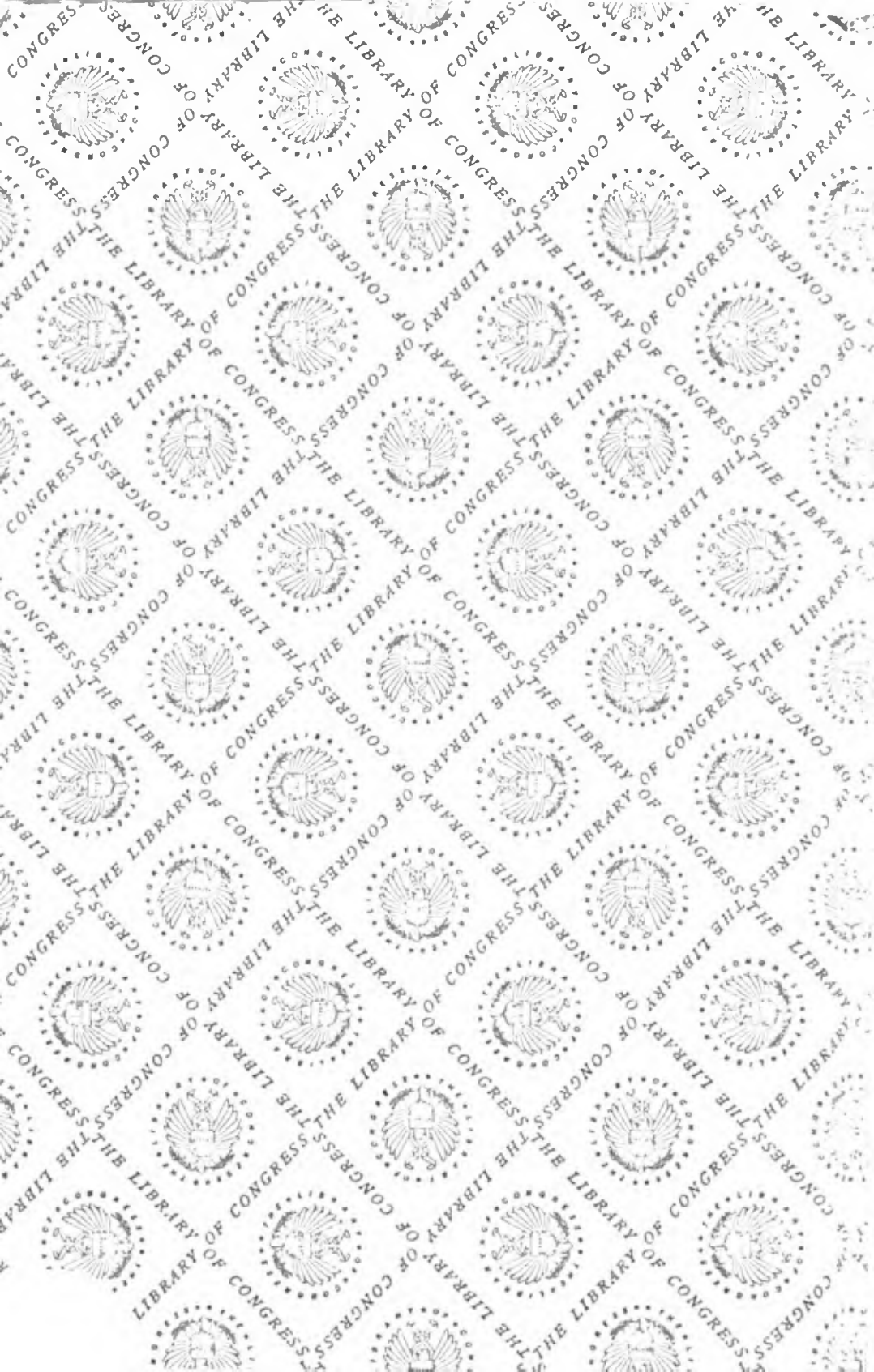
Within any given state, priority should be given to funding through administrative units that will provide the highest quality of service to the largest number of eligible clients (including those in rural areas) in the most efficient manner, consistent with local participation and accountability.

Funds available to a program from sources other than the Corporation will be considered by the Corporation in defining the area to be served. It is not the Corporation's present intention to limit total funds (LSC and non-LSC funds) to the minimum access level of the equivalent of two attorneys per 10,000 poor, in view of the instability of most non-LSC funding sources. If the total of non-LSC funds plus the proposed LSC grant would allow the program to operate at a level in excess of the equivalent of four attorneys per 10,000 poor, however, the amount of LSC funding may be adjusted accordingly.

If in grant year 1978, funds were provided for service in a county at less than the minimum access level, priority will be given in grant year 1979 to increasing the funds for service in that county to the minimum access level.



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